

Hackney Carriage and Private Hire Licensing Handbook



Walsall Council

VERSION LOG

When parts of the handbook are changed, a log will be created to ensure that everyone is aware of what version of the handbook is the most up to date.

Type of Amendment	Sections Amended	Pages Amended	Date change implemented
Legislative	Fit & Proper Policy and Convictions Guidelines	All – New Handbook created	21/02/2024

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Introduction

The primary and overriding aim of Walsall Council when carrying out its functions as a licensing authority is the protection of the public.

Licences for drivers of hackney carriages, private hire vehicles or private hire operators may only be granted where the Council is satisfied that the individual is a fit and proper person to hold such a licence. Local Government (Miscellaneous Provisions) Act 1976 S51 (1)(a) and S59 (1)(a)

This policy is intended to show which tests and checks Walsall Council will use to determine the suitability of an applicant to be granted a licence. If a licence holder falls short of this fit and proper standard at any time, Walsall Council will give consideration based on all the evidence available to it as to whether the licence will be, suspended, revoked or not renewed on application.

In considering whether an applicant or licence holder is fit and proper, those making the decision on behalf of the Council will ask themselves the following question:

Without any prejudice, and based on the information before you, would you allow a person for whom you care, regardless of their condition, to travel alone in a vehicle driven by this person at any time of day or night?

All decisions on the suitability of an applicant or licence holder are made on the balance of probability. This means that an applicant or licence holder will not be 'given the benefit of doubt'. If the committee or authorised officer is only "50/50" as to whether the applicant or licence holder is 'fit and proper', they will not grant a licence. The threshold used here is lower than for a criminal conviction (that being beyond reasonable doubt) and can take into consideration conduct that has not resulted in a criminal conviction.

If an applicant or current licence holder is not satisfied with a decision made by an authorised officer, they may appeal the decision to the Licensing and Safety Committee. The appeal should be set out in writing clearly explaining why the decision is unreasonable or what the exceptional circumstances are surrounding the case. The appeal should be addressed to the Director of Resilient Communities at Walsall Council.

Licence holders or applicants may also have the right to appeal to the Magistrates Court against certain decisions made by the licensing authority. The applicant or licence holder should take legal advice as to the most appropriate procedure to follow in these circumstances as appeals to the Magistrates Court are time limited and incur costs.

Unless specified elsewhere all checks and tests are undertaken at the applicant's own risk and must be paid for by the applicant.

1 Fit and Proper Person test at the application stage

- 1.1 Walsall Council requires applicants for all types of licence to complete the process relevant to their specific application as described in this policy.
- 1.2 In determining whether an applicant or licence holder is fit and proper, those making the decision on behalf of the Council will consider:
- Whether an applicant has met the Council's application requirements
 - Any information revealed by DBS certificates relating to the applicant / licence holder
 - Any information revealed under Common Law Police Disclosure provisions.
 - Any information revealed by checks undertaken on the applicant or licence holder's DVLA driving licence records.
 - Any information revealed on the medical fitness certificate.
 - Any information revealed during checks on NR3s.
 - Any information regarding complaints received about an applicant or licence holder
- 1.3 An application will normally be refused, or action will be taken in relation to an existing licence if the applicant: -
- Fails any of the checks listed below.
 - Is in breach of the Taxi and PHV Licensing, Motoring and Criminal Convictions Guidelines (otherwise referred to as the Convictions Guidelines).
 - Has previously been a licence holder in this or any other borough and that licence has been revoked, suspended or refused.
 - Has exhibited behaviour which is inconsistent with that expected of a Walsall licence holder.
 - Is in breach of any conditions/legislation relating to their licence.
- 1.4 Walsall Council's Convictions Guidelines assist in determining whether an applicant is fit and proper. While each application must be determined on its individual merits, the Convictions Guidelines set out a recommended minimum period free of conviction for offences falling into broad categories.
- 1.5 **Where an applicant has previous convictions, cautions or other relevant matters held against their name and these are within the parameters set in the Convictions Guidelines, authorised officers are delegated to determine whether to grant or refuse a licence.**
- 1.6 **Where a refusal, suspension or revocation decision is made either by an authorised officer or Licensing and Safety Committee or Sub Committee the details of this refusal, suspension, or revocation will be placed on the National Register of Taxi and Private**

Hire Licence Revocations, Refusals and Suspensions (NR3s). In some circumstances it may be appropriate under the **Safeguarding Vulnerable Groups Act 2006** for staff to make referrals to the DBS for example where a decision is made to refuse, suspend or revoke a licence as the individual is thought to present a risk of harm to a child or vulnerable adult.

- 1.7 **Any applications that are not within the parameters set in the Convictions Guidelines or this Policy will normally be refused. The Head of Community Safety & Enforcement or a Team Leader may determine that an application within Policy should be referred to the Licensing and Safety Committee if it is contentious in any way.**
- 1.8 On a case-by-case basis and only in exceptional circumstances the Licensing and Safety Committee may resolve to set aside or amend the standard conditions or policies in circumstances where the committee considers that not to do so would be unjust or unfair. The setting aside or amendment of the condition or policy will be specific to that case alone.
- 1.9 Applicants and licence holders are required to disclose if they hold or have previously held a private hire or hackney carriage licence with another authority. An applicant should also disclose if they have had an application for a licence refused, or a licence revoked or suspended by Walsall Council or any other licensing authority.
- 1.10 In these cases, the application will normally be placed before a Licensing and Safety Sub Committee to determine whether considering all evidence placed before them the applicant is a fit and proper person to be granted a licence.
- 1.11 The applicant must follow and complete the process to be considered a fit and proper person at their own risk. If the licence is ultimately not granted or if the applicant fails any part of the process the applicant will not be entitled to any refund of the costs of the various tests and assessments carried out.
- 1.12 The licensing service will inform applicants of the approved contractor, individual or organisation that carries out the various tests on behalf of the licensing authority. The council may change the contractor, individual or agency it uses as long as the decision is constitutionally correct. The authority will seek assurances as to the quality of service provided and that it provides value for money for the trade.
- 1.13 Applicants who have never been licensed by Walsall Council previously must provide all valid documentation requested below and must have undertaken and passed all tests listed below.
 - A Home Office entitlement to work. This may be either a valid British Passport or documents listed in the Home Office Guidance confirming the entitlement to remain and work in the UK.
 - A full UK driving licence or equivalent held for no less than 12 months.
 - Completed and passed the most current version of the Driver Training Course.

- Provide to the licensing authority a valid medical certificate completed by their GP, who has seen the applicant's medical history. The medical must declare the applicant is fit to drive private hire/hackney carriage vehicles and be signed within the last 2 months prior to the date of submission of the application.
- Completed and passed the practical driving assessment and provided relevant certificates.
- For Private Hire and Hackney Carriage Vehicle Drivers – they must provide evidence that they have completed the online DBS application as instructed by the licensing authority prior to the submission of their application.
- Vehicle Proprietors and Base Operators who do not hold a hackney carriage & private hire drivers licence issued to them by Walsall Council, must provide a Standard Disclosure (Basic Disclosure) from the Disclosure and Barring Service. The disclosure must be dated no more than 12 months prior to the date of the submission of the vehicle application. Where the certificate discloses information, a determination will be required to be made by Licensing Sub-Committee or the Head of Community Safety & Enforcement as to whether the individual is fit and proper.
- Provide a valid DVLA sharing code so that the status of the driving licence and any endorsements can be checked by the Licensing Authority using that code. The code must be provided to the Licensing Authority within 21 days of obtaining the code.
- Have passed the language and maths tests stipulated by the authority.
- Have passed the Hackney Carriage knowledge test where appropriate.
- The trading name of base operators must be approved by Walsall Council before a licence is issued.

Walsall Council Licensing Service will check with other agencies such as the Walsall Safeguarding Partnership or any other organisation, local authority Walsall Council feel they need to check with.

- 1.14 Any allegations, complaints or concerns raised by other persons, authorities or agencies will be suitably investigated during the application process and before a decision is made on the issuing of a licence.
- 1.15 An applicant who has previously been licensed by Walsall Council but who has allowed their licence to expire or has had their licence revoked will need to complete a new application and undertake and pass all tests listed above. That is unless Head of Community Safety & Enforcement is satisfied that the tests previously undertaken were suitable and sufficient to warrant waiving the requirement for them to be retaken as part of the new application.

This decision will only relate to:

1. The most current version of the Driver Training Course
2. The current practical driving assessment
3. Any language and maths tests stipulated by the Authority.
4. The Hackney Carriage knowledge test where appropriate

- 1.16 The Licensing Service will use information obtained through the application process to send and communicate information relating to the licence, including reminders of the expiry of time limited tests and certificates, notifications of changes to policy or procedure and other information which is deemed beneficial for the trade.

2. Home Office Entitlement to Work

This check is relevant to:

- **Private Hire Vehicle Drivers**
- **Hackney Carriage Vehicle Drivers**
- **Base Operators**

- 2.1 The Immigration Act 2016 was brought in to prevent illegal working and is directly relevant to the private hire and hackney carriage trade. The provisions of the Act prohibit all Licensing Authorities across the UK issuing licences to anyone who is disqualified by reason of their immigration status.
- 2.2 An applicant's right to work in the UK will be checked as part of their licence application, this includes checking an applicant's immigration status with the Home Office. Walsall Council may also share information with the Home Office. An applicant must therefore provide a document or document combination that is stipulated as being suitable for this check. The list of documents is set out in the home Office document 'Guidance for Licensing Authorities to Prevent Illegal Working in the Taxi and Private Hire Sector in England and Wales' or any successive document.
- 2.3 An applicant will be asked to provide the original document(s), such as their passport or biometric residence permit, as indicated in the published guidance, so that the check can take place. The document(s) will be copied, and the copy retained by Walsall Council Licensing Service. The original document will be returned to the applicant. An application will not be considered valid until all the necessary information and original document(s) have been produced and the relevant fee has been paid.
- 2.4 If there are restrictions on the length of time an applicant may work in the UK, their licence will not be issued for any longer than this period. In such circumstances the check will be repeated each time they apply to renew their licence. If, during this

period, the applicant is disqualified from holding a licence because they have not complied with the UK's immigration laws, the licence will lapse and must be returned to Walsall Council Licensing Service. Failure to do so is a criminal offence.

3. Driver Training Course

This assessment will be carried out in relation to:

- **Private Hire Vehicle Drivers**
- **Hackney Carriage Vehicle Drivers**
- **Base Operators**

3.1 This course aims to teach attendees about:

- Licence conditions and legislation that apply to the trade.
- Enforcement issues and road safety
- Personal safety for drivers
- Customer care
- Safeguarding, including identifying and reporting vulnerable persons, children at risk of sexual exploitation and county lines.
- Disability awareness and protecting vulnerable people e.g. older people,
- Demonstration on how to load and secure a wheelchair and wheelchair user in a vehicle and otherwise assisting wheelchair users.

3.2 The applicant must pass the examination at the end of this training in order to fulfil the fit and proper person test and continue with their application. Should an applicant fail the test they will be required to pay for a re-test. Should the applicant fail the re-test, they will be required to pay for a full training day again and be booked on to the next available day the training will be provided.

3.3 From time to time existing or currently licensed drivers may be asked to take part in update or refresher training. A determination as to content, cost and location will be considered and consulted on prior to implementation.

3.4 As a consequence of any Committee resolution following a review of their licence or application a licence holder may be required to attend this training and pass the test at their own expense.

4. Medical Assessment

This check is relevant to:

- **Private Hire Vehicle Drivers**
- **Hackney Carriage Vehicle Drivers**

- 4.1 It is important that those who choose to drive for a living are medically fit to drive so that they do not pose a hazard to themselves, passengers and other road users. The applicant/driver's medical history must be assessed as well as their current health status. Applicant's/licence holders will be required to meet the DVLA's Group 2 Medical Standards.
- 4.2 Medical assessments will be carried out by the applicant's GP. Where the applicants GP is unable to undertake medical assessments or refuses, the applicant will inform the Licensing Authority who will then confirm with the GP Surgery and inform the applicant on the next steps to take.
- 4.3 The applicant/licence holder or GP must provide satisfactory evidence to the Licensing Service of the outcome of the assessment prior to the application being processed (for example a signed certificate from their GP).
- 4.4 Failure to supply the Council with an up-to-date copy of a medical assessment (or medical certificate where appropriate) or providing an incomplete or false medical assessment may also result in refusal to licence the individual or suspension, revocation of the licence and may lead to enforcement action being taken.
- 4.5 The medical assessment must be undertaken every 5 years for persons under the age of 65 and annually for persons aged 65 and above. The medical must be carried out within the last 3 months following the receipt of the application.
- 4.6 The Licensing Authority may make a request for a medical assessment outside of the normal requirement mention in 4.5, should they have valid reasons to do so.

5. Practical Driving Assessment

This check is relevant to:

- **Private Hire Vehicle Drivers**
- **Hackney Carriage Vehicle Drivers**

- 5.1 Applicants must have held a full UK driving licence for no less than 12 months from the date of first issue by the DVLA.

- 5.2 Walsall Council also requires that professional drivers who are spending a considerable amount of time driving themselves and passengers should have an additional practical assessment carried out by Walsall Council approved instructor, to ensure their driving is safe and suitable.
- 5.3 As a consequence of any committee resolution following a review of their licence a driver may be required to attend this assessment and pass the test at their own expense.

6. Disclosure and Barring Service Checks

ENHANCED DBS CHECK

This check is relevant to:

- **Private Hire Vehicle Drivers**
- **Hackney Carriage Vehicle Drivers**

STANDARD DBS CHECK

This check is relevant to:

- **All Vehicle Proprietors**
- **Base Operators**
- **Other workers at a private hire base**

- 6.1 As a Licensing Authority Walsall Council is entitled to request an enhanced criminal record certificate with check of the barred lists from the DBS for all driver licence holders or applicants at first application or every 6 months.
- 6.2 All individuals applying for or renewing a taxi or private hire vehicle driver's licence will be subject to a check of the children and adult Barred Lists in addition to being subject to an enhanced DBS check prior to a new licence being issued. Once licensed all drivers will be required to evidence continuous registration with the DBS update service to enable Walsall Council to routinely check for new information every six months. Drivers that do not subscribe to the update service will still be subject to a check every six months at their own expense. A licence holder who fails to remain subscribed to the DBS Update Service or fails to co-operate with obtaining a new DBS certificate will be subject to a review to determine if they remain a fit and proper person to hold a licence, which could lead to the suspension or revocation of their licence.
- 6.3 Following the grant of the renewal and submission of the enhanced DBS, the Enhanced DBS and Barring list check returns and subsequently there is information received that in the opinion of the Licensing Service makes that person unfit to hold a licence consideration will be given to the revocation of the licence.

- 6.4 Where convictions are reported to the Licensing Service in relation to a currently licensed driver and these convictions have not previously been considered an Authorised officer or the Taxi Licensing Sub Committee or full Licensing & Safety committee will determine whether action is necessary in relation to the continuance of that licence.
- 6.5 Once information on the Enhanced DBS has been considered by the Licensing Service or the Taxi Licensing Sub Committee it need not be reconsidered each time the licence is reapplied for unless it shows a pattern of offending that calls into question whether the person is fit and proper or breaches the Convictions Guidelines.
- 6.7 Vehicle proprietors have two principal responsibilities, to ensure their vehicle is maintained to an acceptable safe standard at all times and to ensure their vehicle is not used for illegal or illicit purposes.
- 6.8 Applicants for a vehicle licence will therefore have to undertake an annual standard Disclosure from the DBS. If the standard disclosure shows relevant convictions Walsall Council will give consideration as to whether the applicant should be granted a licence (see Convictions Guidelines for relevant convictions). A standard Disclosure will be accepted up to 12 months from the date of issue of the certificate.
- 6.9 If the vehicle proprietor is also a licensed vehicle driver compliant with points 6.2 and 6.3 above then there will be no need to undertake a standard disclosure check. This does not apply to businesses hiring vehicles to drivers in the event of an accident. Where the vehicle is owned jointly, in partnership or by a company, all partners, directors of the company will be required to undertake the standard disclosure.
- 6.10 Where a vehicle proprietor owns more than 1 vehicle it is sufficient for one Basic Disclosure to be undertaken annually and not each time each vehicle is licensed.
- 6.11 Private Hire Base Operators are in a position whereby they have access to significant amounts of personal information regarding their customers. Therefore, it is essential Base Operators are trustworthy and reliable. Base Operators will therefore have to undertake a Standard Disclosure prior to the issue of any licence and upon any renewal.
- 6.12 Private hire vehicle operators must demonstrate to Walsall Council that all staff that have contact with the public and/or oversee the dispatching of vehicles do not pose a risk to the public. Base Operators must therefore keep a register of all staff that will take bookings or dispatch vehicles.
- 6.13 Operators must be able to provide evidence to Walsall Council that they have had sight of a Standard DBS check on all INDIVIDUALS LISTED ON THEIR REGISTER OF BOOKING AND DISPATCH STAFF and to ensure that Standard DBS checks are conducted on any individuals added to the register and that this is compatible with their policy on employing ex-offenders. DBS certificates provided by the individual should be recently issued when viewed, alternatively the operator could use a

'responsible organisation' to request the check on their behalf. When individuals start taking bookings and dispatching vehicles for an operator they should be required, as part of their employment contract, to advise the operator of any convictions while they are employed in this role.

- 6.14 The register should be a 'living document' that maintains records of all those in these roles for the same duration as booking records are required to be kept, this will enable cross-referencing between the two records. A record that the operator has had sight of a standard DBS check certificate (although the certificate itself should not be retained) should be retained for the duration that the individual remains on the register. Should an employee cease to be on the register and later re-entered, a new standard DBS certificate should be requested and sight of this recorded.
- 6.15 Failure by the Base Operator to carry out suitable checks will call into question their own suitability and may result in the refusal to licence or enforcement action taken against the operators which may lead to a revocation of the operator's licence. Walsall Council Licensing Service will ask for evidence these checks have been carried out at least upon application and if necessary, during the currency of the licence through a formal request or visits to the operators.

7. DVLA mandate/code check

This check is relevant to:

- **Private Hire Vehicle Drivers**
- **Hackney Carriage Vehicle Drivers**

- 7.1 Driver licences issued by the DVLA will need to be checked by the local authority to ascertain the date of the licence expiry, disqualification and any endorsements at the time of application.
- 7.2 For subsequent applications ('renewals'), the applicant will utilise the DVLA share-code. Failure to supply the Council with an up-to-date DVLA share-code may result in a delay in the issue of the licence. Where endorsements are recorded following the DVLA licence check a decision will be taken as to whether the driver is a fit and proper person and whether they can proceed in their application, further information is also contained in the Convictions Guidelines.
- 7.3 Where a currently licensed driver receives a motoring conviction during the currency of their licence a review will be undertaken of the conviction and the matter may be placed before the Licensing and Safety Sub Committee or the Head of Community Safety & Enforcement for a decision as to the continuance of the Licence.

8. English/Maths test

This check is relevant to:

- **Private Hire Vehicle Drivers**
- **Hackney Carriage Vehicle Drivers**

- 8.1 All new applicants must attain a satisfactory level of English Reading, English Listening and Mathematics as part of Walsall Councils pre licensing fit and proper person test. This ensures prospective drivers can communicate effectively with passengers in terms of their requirements and their fares. The details of the nominated organisation administering these tests will be made available to the applicant during the application process together with the types of qualification(s) that will be acceptable.
- 8.2 A valid GCSE in English Reading, English Listening and Mathematics (or any other equivalent qualification approved by the Head of Community Safety & Enforcement) would be accepted providing the Licensing Authority are satisfied.

9. Knowledge Test for Hackney Carriage Drivers

This check is relevant to:

- **Hackney Carriage Vehicle Drivers**

- 9.1 It is important that Hackney Carriage drivers have a good knowledge of the Borough so that as they pick up customers, they can effectively find their way around the Borough without undue delay and by taking the most appropriate direct route.
- 9.2 This test gives the Licensing Service the opportunity to ascertain the driver's knowledge of Hackney Carriage conditions, byelaws that are not covered in the Driver Training Course, geographical knowledge and shortest routes.

10. Base Operators – Trading Name

This is relevant to:

- **Base Operators**

- 10.1 The Licensing Office shall have the right to refuse to register any trading name that is likely to cause confusion to the general public or is similar to a trading name registered to another licensed operator.

11. Other Sources of Information

This is relevant to:

- **Private Hire Vehicle Drivers**
- **Hackney Carriage Vehicle Drivers**
- **Vehicle proprietors**
- **Base Operators**

- 11.1 Walsall Council is entitled to use other records and information that may be available to it in determining applications or an entitlement to continue holding a licence.
- 11.2 This may include information held by the Council, other Licensing Authorities, held on the National Register of Taxi and Private Hire Licence Revocations, Refusals and Suspensions (NR3s) and information disclosed by the police for example under the home Office scheme for reporting offences committed by notifiable occupations. It should also be noted that the determination of whether an applicant is “fit and proper” includes consideration of conduct falling short of a criminal conviction.
- 11.3 Walsall Council may also be asked to share the information it holds in respect of those persons or companies licensed by it. The information will only be shared with those entitled to request it and in accordance with statutory guidelines. In terms of licence refusals, revocations or prosecutions information may be shared on national databases developed and implemented by national agencies or central government such as the NR3s.

12. Complaints

This is relevant to:

- **Private Hire Vehicle Drivers**
- **Hackney Carriage Vehicle Drivers**
- **Vehicle proprietors**
- **Base Operators**

- 12.1 Walsall Council may become aware of a complaint from residents, businesses, partner agencies etc. about the conduct of an applicant or licence holder. In this case the evidence submitted will be scrutinised and the matter fully investigated. Subsequently a determination about whether the licence holder or applicant is a fit and proper person will be made by the relevant Authorised Officer or Committee of Elected Members. The authority will follow the code of practise and enforcement policy.

13. Legal Requirements

The law relating to 'Fit and Proper' persons is contained within:

- The Local Government (Miscellaneous Provisions) Act 1976 s51(1) (private hire drivers)
- The Local Government (Miscellaneous Provisions) Act 1976 s55(1) (operators).
- The Local Government (Miscellaneous Provisions) Act 1976 s59(1) (hackney carriage drivers)

In producing this Policy regard has been had to the Statutory Taxi & Private Hire Vehicle Standards issued by the Department for Transport in July 2020

From time-to-time case law or guidance in relation to the Private Hire and Hackney Carriage licensing regime may change. Walsall Council will always take into consideration these changes when determining individual licences.

Motoring and Criminal Convictions Guidelines

Introduction

The purpose of these guidelines is to provide guidance on the criteria taken into account by the Council when determining whether or not an applicant or an existing licence holder is a fit and proper person to hold a hackney carriage and/or private hire driver, proprietor or operator licence.

It is the responsibility of Walsall Council under the Local Government (Miscellaneous Provisions) Act 1976 and the Town Police Clauses Act 1847. In exercising this duty, the Council will consider the safety of the public as its primary consideration. This Policy gives guidance to those exercising the Council's powers in relation to Hackney Carriage and Private Hire licensing in determining whether or not an applicant or existing licence holder is fit and proper to hold such a licence.

The overriding aim of the Licensing Authority is to protect the safety of the public. The Licensing Authority is concerned to ensure:

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

This document provides guidance to any person with an interest in taxi and private hire licensing. In particular, but not exclusively:

- Applicants for driver's licences.
- Existing licence driver's, operators and vehicle proprietors whose licences are being renewed or reviewed.
- Applicants for operator licences.
- Applicants for vehicle licences.
- Magistrates hearing appeals against local authority decisions.

Where powers to grant licences have been delegated to licensing officers or managers, they will utilise these guidelines when making a decision to grant a licence. In all other cases applications for licences will be referred to the Committee.

The discharge of licensing functions will be undertaken in accordance with the following general principles:

- policies should be used as internal guidance and should be supported by a member/officer code of conduct.
- any implications of the Human Rights Act should be considered.
- the rules of natural justice should be observed.
- decisions must be reasonable and proportionate.

- where a hearing is required, it should be fairly conducted and allow for appropriate consideration of all relevant factors.
- decision makers must avoid bias (or even the appearance of bias) and predetermination.
- data protection legislation
- Consideration will also be given to the Regulatory Services Enforcement Policy and any other relevant guidance or legislation.

Applicants and licence holders will be treated fairly and impartially, each case will be considered on its individual merits and, where the circumstances demand, the Committee or officer may depart from the guidelines.

14. General guidelines

- 14.1. There may be occasions where it is appropriate to depart from the guidelines, for example where there are mitigating or aggravating circumstances or alternatively where there are many or continuous offences which may show a pattern of offending and unfitness.
- 14.2. A person with a conviction for a serious offence may challenge being automatically barred from obtaining a licence and in so doing would normally be expected to:
 - a. Remain free of conviction for an appropriate period; and
 - b. Show adequate evidence that he or she is a fit and proper person to hold a licence (the onus is on the applicant to produce such evidence). Simply remaining free of conviction may not generally be regarded as adequate evidence that a person is a fit and proper person to hold a licence.
- 14.3 Where an applicant has been convicted of a criminal offence, the Licensing Authority cannot review the merits of the conviction [Nottingham City Council v. Mohammed Farooq (1998)].
- 14.4 Officers from the licensing section will, where appropriate, contact other agencies for any other information which they may hold for instance, the Council's Children Services, Walsall's Exploitation hub and West Midlands Police. Information received from the Disclosure Barring Service or other agency will be kept in strict confidence while the licensing process takes its course and will be retained no longer than is necessary and, in any event, will be destroyed in accordance with the requirements of the Data Protection Act 1998 and in accordance with good practice after the application is determined or any appeal against such determination is decided.
- 14.5 The disclosure of a criminal conviction or other relevant information relating to an individual's conduct will not necessarily debar an individual from being granted, retaining or renewing a licence but clearly the conviction will be an important consideration in whether a licence is granted.

15. Appeals

- 15.1 Any applicant refused a licence on the grounds that the Licensing Authority is not satisfied he/she is a fit and proper person to hold such a licence has a right to appeal to the Magistrates' Court within 21 days of the receipt of the notice of refusal [Local Government (Miscellaneous Provisions) Act 1976, s 77 (1)].

16. Powers

- 16.1. Section 61 and Section 62 of the Local Government (Miscellaneous Provisions) Act 1976 sets out the legal basis for licensing authorities to suspend, revoke or refuse to renew a licence following a conviction for various offences or any other reasonable cause.
- 16.2. The Rehabilitation of Offenders Act 1974 (Exceptions)(Amendment) Order 2002 allows the Licensing Authority to take into account all convictions recorded against an applicant or the holder of a private hire vehicle or hackney carriage driver's licence, whether spent or not. Therefore, the Licensing Authority will have regard to all relevant convictions, particularly where there is a long history of offending or a recent pattern of repeat offending.
- 16.3. In this policy the term "disqualification" refers to the period served. In order to take account of the fact that a court may reduce the period of disqualification from driving, an applicant must provide evidence in advance to prove that the court agreed a reduction in the period of disqualification.
- 16.4. It should be noted that "any reasonable cause" includes conduct falling short of a criminal conviction(s).

17. Consideration of disclosed criminal history

- 17.1. The Local Government (Miscellaneous Provisions) Act 1976 (s51, 55 and 59) require licensing authorities to ensure that an applicant for the grant or renewal of a hackney carriage and/or a private hire vehicle drivers' licence and/or private hire vehicle operator licence is a 'fit and proper' person to hold such a licence.
- 17.2. Walsall Council will take a particularly cautious view of any convictions, warnings, cautions or charges awaiting trial for offences against individuals with special needs, children and other vulnerable groups, particularly those involving violence, those of a sexual nature and those linked to organised crime.

17.3. The following will also be given consideration prior to any decision being made.

- How relevant the offence(s) are to the licence being applied for.
- How serious the offence(s) are.
- When the offence(s) were committed.
- The date of conviction.
- Circumstances of the individual concerned.
- Sentence imposed by the court.
- The applicant's age at the time of conviction.
- Whether they form part of a pattern of offending.
- Any other character check considered reasonable (e.g. personal references).
- Any other factors that might be relevant.

17.4. Licence holders are required to notify Walsall Council if they have been:

- arrested and released,
- charged or reported for summons for any offence.
- questioned by the police and given a date to return to the police station, known as being on bail.
- convicted of an offence
- cautioned for an offence.
- issued a Fixed Penalty Notice

17.5. Where the matters listed in 5.4 relate to any sexual offence, any offence involving dishonesty or violence and any motoring offence then the Licence holder must make the notification within 48 hours.

17.6. Where the matters listed in 5.4 relate to any other matter the licence holder must make the notification within seven days.

17.7. The notification should be made in writing, email, e-form or other official record.

17.8. Once a notification is received in relation to 5.3 or 5.4 Walsall Council will carry out a review as to whether the licence holder is fit to continue to do so.

17.9. This does not mean that the licence will be revoked it does however mean consideration as to what, if any, action in terms of the licence should be taken based on the balance of probabilities.

17.10. Where Walsall Council has not been or has no evidence of being advised of circumstances as set out in 5.3 and 5.4 then this will be seen as behaviour that questions honesty and therefore the suitability of the licence holder regardless of the outcome of the initial allegation.

17.11. The Licensing Authority carries out a Disclosure and Barring Service (DBS) check for any applicant for any licence.

17.12. The Licensing Authority is also entitled to use other records and information that may be available to it in determining applications or an entitlement to continue holding a licence. This may include information held by the Licensing Authority or other licensing authorities, National Register of Revocations, Refusals and Suspension (NR3s) and information disclosed by the police under the home Office scheme for reporting offences committed by notifiable occupations.

17.13. It is an offence for any person knowingly or recklessly to make a false declaration or to omit any material particular in giving information required as part of the application process. Where an applicant has made a false statement or a false declaration as part of their application for the grant or renewal of a licence, the licence will normally be refused or revoked.

18. Crimes Resulting in Death

18.1. A licence will not be granted where the applicant has a conviction for an offence such as:

- Murder
- Manslaughter
- Manslaughter or culpable homicide while driving
- Terrorism offences
- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above

18.2. Where a licence holder 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 the licence will be revoked or refused to be renewed.

19. Exploitation

19.1. Where an applicant or licence holder 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 Abuse
- Exploitation
- Grooming
- Psychological,
- Emotional or financial abuse

This list is not exhaustive.

20. Offences involving violence against the person

20.1. A licence will not normally be granted where the applicant has a conviction for an offence or similar offence(s) which replace the below offences and the conviction is less than 10 years prior to the date of application:

- Arson
- Malicious wounding
- Actual bodily harm which is racially aggravated
- Grievous bodily harm
- Robbery
- Possession of firearm
- Riot
- Assault Police
- Common assault with racially aggravated
- Violent disorder
- Resisting arrest
- Or any similar offences (including attempted or conspiracy to commit), or offences which replace the above

20.2. A licence will not be granted where the applicant has been convicted for more than one of the above offences. Where a licence holder has been convicted of one or more of the above offences, the licence will be revoked or refused to be renewed.

20.3. A licence will not normally be granted where the applicant has a conviction for an offence or similar offence(s) which replace the below offences and the conviction is less than 5 years prior to the date of application:

- Racially aggravated criminal damage
- Racially aggravated offence
- Common assault
- Assault occasioning actual bodily harm.
- Affray
- S5 Public Order Act 1986 offence (harassment, alarm or distress)
- S.4 Public Order Act 1986 offence (fear of provocation of violence)
- S4A Public Order Act 1986 offence (intentional harassment, alarm or distress)
- Obstruction
- Possession of offensive weapon
- Criminal damage
- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above

- 20.4. A licence will not normally be granted if an applicant has more than one conviction for an offence of a violent nature. Where a licence holder has been convicted of one or more of the above offences, the licence will be revoked or refused to be renewed.

21. Possession of a weapon

- 21.1. Where an applicant has a conviction for possession of a weapon or any other weapon related offence, a licence will not be granted until at least seven years have elapsed since the completion of any sentence imposed.

22. Sexual Offences

- 22.1 Where the applicant has a conviction for any offence involving or connected with illegal sexual activity, a licence will not be granted.
- 22.2 Walsall Council will not grant a licence to any applicant who is currently on the Sex offenders Register or on any barred list.
- 22.3 Offences against Children (under 14 years) and Young Persons (aged 14 to 17 years), where the commission of a sexual offence involves a child or young person an application will normally be refused or an existing licence will normally be revoked, irrespective of the date of offence, conviction or end of sentence.
- 22.4 The Council will sometimes be made aware of other intelligence or lower-level information about an individual which has not resulted in the conviction of that person but is relevant in relation to their character. Officers will give appropriate consideration to this information and will seek to consult with other appropriate agencies in order to ensure that they have a comprehensive understanding. Any additional information gathered through this process may then be taken into account at any subsequent committee meeting.
- 22.5 Individuals with a conviction for rape, indecent assault, or other similar offences contrary to the Sexual Offences Act 2003, will normally be refused a licence, or existing licence holders will have their licence(s) revoked, irrespective of the date of offence, conviction or end of sentence.
- 22.6 Applications from Individuals with a conviction relating to sexual offences such as soliciting, importuning, indecent exposure or other similar offences contrary to the Sexual Offences Act 2003, will normally be refused or an existing licence will normally be revoked if the date of conviction or the date on which any custodial sentence is completed is less than 10 years prior to the date of application. Including any suspended sentence or any period where the individual is subject to licence on release (i.e. the custodial sentence will only be considered complete at the end of any licence period).

23. Dishonesty

- 23.1. Where an applicant has a conviction for any offence where dishonesty is an element of the offence, a licence will not be granted until at least seven years have elapsed since the completion of any sentence imposed for a first offence. Where a Hackney Carriage or Private Hire driver has been convicted for any offence where dishonesty is an element of the offence, a licence will be revoked or refused to renew.
- 23.2. Any dishonesty by any applicant or other person on the applicant's behalf which is discovered to have occurred in any part of any application process (e.g. failure to declare convictions, false names or addresses, falsified references or failure to disclose in full information requested by the licensing authority, to include on the application for a licence) will normally result in a licence being refused, or if already granted, revoked and may result in prosecution.
- 23.3. As the direct impact on the public varies depending upon the type of licence applied for or held, it is necessary to consider the impact of particular offences on those licences separately. However, there are some overriding considerations which will apply in all circumstances.
- 23.4. Offences involving dishonesty include (but are not limited to):
- Theft
 - Burglary
 - Fraud
 - Benefit fraud.
 - Handling or receiving stolen goods.
 - Forgery
 - Conspiracy to defraud.
 - Obtaining money or property by deception
 - Other deception
 - Taking a vehicle without consent
 - And any similar offences
 - Or any similar offences (including attempted or conspiracy to commit) offences which replace the above
- 23.5 A Licence will not normally be granted if an Applicant has more than one conviction for a dishonesty offence. Applicants or existing licence holders that are found to have intentionally misled the Council, or lied as part of the application process, will not be issued with a licence.

24. Drugs

- 24.1. Where an applicant 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, a licence will not be granted until at least 10 years have elapsed since the completion of any sentence imposed.
- 24.2. Where an applicant has a conviction for possession of drugs, or related to the possession of drugs, a licence will not be granted until at least five 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.

25. Discrimination

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

26. Motoring convictions

- 26.2. Hackney carriage and private hire vehicle 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.
- 26.3. 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.
- 26.4. **Minor Traffic Offences** - Convictions for minor traffic offences e.g. obstruction, waiting in a restricted street, speeding etc. may prevent a person from being granted a hackney carriage or private hire drivers' licence if they have received more than 2 motoring convictions within the last 2 years. Below is a list of Minor Traffic Offences:

- CU10 Using vehicle with defective brakes
- CU20 Causing or likely to cause danger by reason of use of unsuitable vehicle or using a vehicle with parts or accessories (excluding brakes, steering or tyres) in a dangerous condition
- CU30 Using a vehicle with defective tyres

- CU40 Using a vehicle with defective steering
- CU50 Causing or likely to cause danger by reason of load or passengers
- CU80 Breach of requirements as to control of the vehicle mobile phones etc
- 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 of other road users
- MS10 Leaving a vehicle in a dangerous position
- MS20 Unlawful pillion riding
- MS30 Play street offences
- MS70 Driving with uncorrected defective eyesight
- MS80 Refusing to submit to an eyesight test
- 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
- SP30 Exceeding statutory speed limit on a public road resulting in a fixed penalty
- 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 – summons (not fixed penalty)
- SP40 Exceeding passenger vehicle speed limit
- SP50 Exceeding speed limit on a motorway
- SP60 Exceeding speed limit offence
- TS10 Failing to comply with traffic light signals
- TS20 Failing to comply with double white lines
- TS30 Failing to comply with a “Stop” sign
- TS40 Failing to comply with direction of a constable 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

26.5. The accumulation of 9 or more points will cast grave doubts on the suitability of the applicant and could lead to the refusal or revocation of the application/licence.

26.6. **Major Traffic Offences** – Is a road traffic offence that can result in 4 or more penalty points and/or a period of disqualification and/or imprisonment. A serious view will be taken of any conviction for a major traffic offence, this includes:

- AC10 Failing to stop after an accident
- AC20 Failing to give particulars or to report an accident within 24 hours
- AC30 Undefined accident offences
- BA10 Driving while disqualified by order of Court
- BA30 Attempting to drive while disqualified by order of Court
- 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 alcohol analysis
CD71	Causing death through careless driving the failing to supply a specimen for drug 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
DR31	Driving or attempting to drive when unfit through drugs
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 specimen for analysis in circumstances other than driving / attempting to drive
DR61	Failure to provide specimen for drug analysis in circumstances other than driving / 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
MS90	Failure to give information as to identity of driver, etc.
UT50	Aggravated taking of a vehicle

26.7. These guidelines make specific provision for certain types of major traffic offences and to reflect the seriousness of those convictions. In the case of major traffic offences where no such specific provision is made and paragraph 15 (Disqualification) does not apply, an application will normally be refused unless a period of at least 7 years free from conviction of such offences has elapsed.

27. Disqualification

27.1. Where an applicant has been disqualified from driving following a conviction for a major traffic offence and no specific provision is made above regarding the appropriate rehabilitation period, the application will generally be refused unless a period of 7 years free from conviction has elapsed from the restoration of the DVLA licence.

27.2. Where convictions for a number of minor traffic offences have resulted in the applicant being disqualified from driving for a period of time this will normally be taken as

reflecting seriously on the applicant's driving standard. Generally, a period of 7 years following the expiration of the disqualification period must have elapsed from the restoration of the DVLA licence. A new licence will not normally be granted. Existing licence will be revoked.

- 27.3. In "totting-up" cases where disqualification is considered by the court, even if the court does not disqualify (e.g. because of exceptional circumstances) a driver, the Council is likely to refuse a hackney carriage or private hire driver's licence because different criteria apply and an applicant will normally be expected to show a period of 5 years free from conviction from the date the court made its finding of exceptional circumstances justifying the non-disqualification. Current Hackney Carriage & Private Hire vehicle driver's licence will be revoked.
- 27.4. Any period of disqualification will lead to the suspension/ revocation of a licence.

28. Insurance offences

- 28.1. A serious view will be taken of convictions of driving or being in charge of a vehicle without insurance. An isolated incident in the past will not necessarily prevent a licence being granted provided he/she has been free of such conviction for 3 years; however, a strict warning should be given as to future behaviour.
- 28.2. More than one conviction for these offences would normally prevent a licence being granted or renewed.
- 28.3. An operator found guilty of aiding and abetting the driving of passengers for hire and reward whilst without insurance will have his operators' licence revoked immediately and prevented from holding a licence for three years.

29. Drink driving/driving under the influence of drugs

- 29.1. Where an applicant 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. Where a licensed Hackney Carriage or Private Hire vehicle driver, proprietor or operator has been convicted of this offence the licence will be revoked or refused to be renewed.
- 29.2. 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.
- 29.3. A new licence will not normally be granted for 12 years following the expiration of the last disqualification period or if not disqualified 12 years from the date of the conviction, caution or in the absence of these the date of the offence or relevant

incident. An existing licence will normally be revoked or refused to renew for repeat offences.

30. Using a hand-held device whilst driving

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

31. Cautions

- 31.1 Admission of guilt is required before a caution can be issued. Every case will be considered on its own merits including the details and nature of the offence. A caution is regarded exactly the same way as a conviction.
- 31.2 If an applicant has received a caution for a traffic offence, given the nature of the offence and the profession of a taxi driver, action may be taken after consideration of this policy and the Regulatory Services Enforcement Policy.
- 31.3 Cautions for more serious offences could lead to refusal of an application or the suspension or revocation of a licence.

32. Outstanding charges or summonses

- 32.1 If the individual is the subject of an outstanding charge or summons their application can continue to be processed, but the application will need to be reviewed at the conclusion of proceedings. Where information is received through the Notifiable Occupations Scheme on existing licence holders, consideration will be made at committee.
- 32.2 If the outstanding charge or summons involves a serious offence, then in the interests of public safety the application may be put on hold until proceedings are concluded, or the licence may be refused.
- 32.3 A suspension or revocation of the licence of a driver takes effect at the end of the period of 21 days beginning with the day on which notice is given to the driver. If it appears that the interests of public safety require the suspension or revocation of the licence to have immediate effect, and the notice given to the driver includes a statement that is so and an explanation why, the suspension or revocation takes effect when the notice is given to the driver. [Road Safety Act 2006, s 52, 2A&2B]

33. Licensing offences

- 33.1 Convictions for offences contrary to taxi legislation such as plying for hire, overcharging and refusing to carry disabled persons would normally prevent a licence being granted or renewed unless the applicant has been free of such convictions for a period of at least 3 years. Where an existing licence holder receives such a conviction their licence may be revoked or suspended.
- 33.2 Where a licensed driver, proprietor or operator fails to adhere to the conditions of the licence, the Head of Community Safety & Enforcement or Licensing & Safety Committee/sub-committee may decide to review the licence which could result in suspension or revocation of the licence.

34. Licenses issued by other licensing authorities

- 34.1 Applicants who hold a licence with one licensing authority should not automatically assume that their application will be granted by another. Each case will always be decided on its own merits.
- 34.2 Walsall Council has a duty to ensure that any person to whom it grants a licence is a 'fit and proper' person. A useful test when considering whether an applicant or licensee is fit and proper is to pose the following question:

Without any prejudice, and based on the information before you, would you allow a person for whom you care, regardless of their condition, to travel alone in a vehicle driven by this person at any time of day or night?

If, on the balance of probabilities, the answer to the question is 'no', the individual should not hold a licence.

- 34.3 All decisions on the suitability of an applicant or licensee should be made on the balance of probability. This means that an applicant or licensee should not be 'given the benefit of doubt'. If the committee or delegated officer is only "50/50" as to whether the applicant or licensee is 'fit and proper', they should not hold a licence. The threshold used here is lower than for a criminal conviction (that being beyond reasonable doubt) and can take into consideration conduct that has not resulted in a criminal conviction.
- 34.4 While it is possible that an applicant may have a number of convictions that, individually, meet the above guidelines, the overall offending history must be considered when assessing an applicant's suitability to be licensed. A series of offences over a period of time is more likely to give cause for concern than an isolated minor conviction. Obviously, some discretion can be afforded if an offence disclosed is isolated and there are mitigating circumstances, but the overriding consideration is the protection of the public.

35. Private Hire Operators

- 35.1 A private hire operator ("an operator") in performing their duties obtains and holds considerable amounts of personal and private information about their passengers which must be treated in confidence and not revealed to others or used by the operator or their staff for criminal or other unacceptable purposes.
- 35.2 Operators shall ensure that any staff that are used within the business (whether employees or independent contractors) and are able to access any information as described above are subject to the same standards as the operator themselves. This can be affected by means of the individual staff member being required by the operator to obtain a basic DBS certificate. If an operator is found not to be applying the required standards and using staff that do not meet the licensing authority's overall criteria, that may lead to the operator's licence being revoked.

36. Vehicle Proprietors

- 36.1 As well as the suitability of the vehicle, in determining whether to grant a licence to use a vehicle as a hackney carriage / private hire vehicle, those making the decision on behalf of the Council will consider whether the applicant is a fit and proper person to be issued such a licence.
- 36.2 The licensing authority will take into account any information/intelligence shared by Walsall Council's safeguarding board, West Midlands Police and other Responsible authority or local authority's licensing service when reviewing a licence or granting of a new one.

37. Anti-Social Behaviour and Public Order Offences

- 37.1 Hackney Carriage and Private Hire drivers should behave in a calm and measured manner in the face of provocation and difficult situations. Where licensed drivers fail to meet this:
- (a) First offence – will normally result in a suspension for up to 6 months or refuse to renew. A new licence will not normally be granted for 2 years following the date of conviction, caution or in the absence of these the date of offence or relevant incident.
- (b) Repeat offences – will normally revoke or refuse to renew. A new licence will not normally be granted for 5 years following the date of conviction, caution or in the absence of these the date of offence or relevant incident.

38. Obstruction of Police Officer/Authorised Officer

- 38.1 A licensed Hackney Carriage or Private Hire Driver will normally be suspended for up to 6 months or refuse to renew on a first offence. A new licence will not normally be granted for 6 months following the date of conviction, caution, expiry of a prison sentence or in the absence of these the date of offence or relevant incident. Repeat offences – will normally revoke or refuse to renew. A new licence will not normally be granted for 5 years following the date of conviction, caution, expiry of a prison sentence or in the absence of these the date of offence or relevant incident.