

## **Section 1 – Introduction**

### **4.1 Fit and Proper Person Test**

Licensed drivers are in a position of trust transporting the young and vulnerable at all times of the day and night. The legislation requires that licences can only be granted if the Council is satisfied that the applicant is a fit and proper person.

Whilst there is no definition of a fit and proper person, decisions from the Courts over the years have come to the conclusion that the Council is effectively asking the following question:

*Would you allow your son or daughter, spouse or partner, mother or father, grandson or granddaughter or any other person for whom you care, to get into a vehicle with this person alone?*

During the application process the Council will undertake a number of checks to gather the information necessary to assess the suitability of the applicant.

Factors that will be taken into account when reaching a decision include:

- Criminality (whether the applicant has any criminal convictions or cautions)
- Driving Licence – length held and penalty points endorsed
- Right to work in the UK
- Medical Fitness
- General Conduct/standards of behaviour
- Conduct of the applicant during the application process
- Previous licensing history
- Knowledge of the Borough of Fylde, and other matters such as the Highway Code and taxi law
- Ability to communicate and understand English

This is not an exhaustive list of matters that will be considered and further information will be sought from other agencies such as the Police, Safeguarding Boards and other licensing authorities as appropriate.

## **Appendix A – Taxi and PHV Licensing Criminal Convictions’ Policy**

1.3 The term “fit and proper person” for the purposes of licensing is not legally defined and in assessing whether someone is “fit and proper” the Council will consider the following together with any other relevant information:

- Criminality
- Human rights
- Period of holding a driver’s licence
- Number of penalty points endorsed on driving licence
- Right to work
- Medical fitness
- Conduct of the applicant in making the application (e.g. whether they have acted with integrity during the application process)
- Previous licensing history of existing and former licence holders

In addition the Council will also consider further information provided by sources such as the Police (including abduction notices), Children and Adult Safeguarding Boards and other statutory agencies.

1.5 Where licensing officers have delegated powers to grant licences, 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 Public Protection Sub-Committee. Whilst officers and the Sub-Committee will have regard to the guidelines contained in the policy, each case will be considered on its individual merits and, where the circumstances demand, the committee/officer may depart from the guidelines.

2.4 All decisions on the suitability of an applicant will be made on the balance of probability. Applicants will not be given the benefit of the doubt and should the Public Protection Committee be only “50/50” as to whether the applicant is ‘fit and proper’ the licence will not normally be granted.

5.1 Under the provisions of Sections 51, 55, and 59, Local Government (Miscellaneous Provisions) Act 1976, the licensing authority is required 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 operators licence is a ‘fit and proper’ person to hold such a licence. However, if an applicant has any convictions, warnings, cautions or charges awaiting trial, the licensing authority will look into:

- How relevant the offence(s) are to the licence being applied for
- How serious the offence(s) were
- 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

5.6 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, and information disclosed by the police.

5.7 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 by the application for a licence. Where an applicant has made a false statement or a false declaration on their application for the grant or renewal of a licence, the licence will normally be refused.

9.1 A licensed PHV or taxi driver is expected to be a trustworthy person. They deal with cash transactions and valuable property may be left in their vehicles. The widespread practice of delivering unaccompanied property is indicative of the trust that business people place in licensed drivers. Moreover, it is comparatively easy for a dishonest driver to defraud the public by demanding more than the legal or agreed fare, etc. Drivers may well deal with customers who are vulnerable or intoxicated and potentially easily confused. For all these reasons, a serious view is taken of any conviction involving dishonesty.