

Appendix B

Proposed changes to existing Criminal Convictions Policy (currently called Statement of Policy about Relevant Convictions)

The proposed changes take into account the recommendations by the DfT in their 'Statutory Taxi and Private Hire Vehicle Standards' and the Institute of Licensing's 'Guidance on determining the suitability of applicants and licensees in the hackney and private hire trades'.

Current statement	Proposed change
<p>General A person with a current conviction for a serious crime need not be permanently barred from obtaining a licence but should expect to remain free from a conviction for 3 – 5 years, according to the circumstances, before an application is entertained.</p>	<p>3 – 5 years to be replaced with 'a suitable period of time, detailed later in this policy'.</p> <p>It is important to recognise that matters which have not resulted in a criminal conviction (whether that is the result of an acquittal, a conviction being quashed, decision not to prosecute or an investigation which is continuing where the individual has been bailed) can and will be taken into account by the licensing authority. In addition, complaints where there was no police involvement will also be considered. A caution, fixed penalty, and community resolution will also be considered.</p>
<p>Minor Traffic Offences Isolated convictions for minor traffic offences should not prevent a person from proceeding with an application. However, the number, type and frequency of this type of offence will be taken into account and if there are several offences of this nature the applicant will normally be expected to show a period free of conviction of at least 6 months. In particular, an application will normally be refused where the applicant has 12 or more penalty points on his D.V.L.A. licence (whether or not the applicant was convicted by a court for the offences for which the points were imposed) or where the applicant has more than one conviction for this type of offence within the last 6</p>	<p>Driving offences involving the loss of life A very serious view is to be taken of any applicant who has been convicted of a driving offence that resulted in the loss of life. A licence will not be granted if an applicant has a conviction for: Causing death by dangerous driving Causing death by careless driving whilst under the influence of drink or drugs Causing death by careless driving Causing death by driving: unlicensed, disqualified or uninsured. Or any similar offences (including attempted or conspiracy to commit) or offences which replace the above.</p>

months.

Major Traffic Offences

An isolated conviction, without disqualification, for a major traffic offence will require careful consideration of the facts and will at the very least merit a warning as to future driving and advice on the standard expected of hackney carriage and private hire vehicle drivers. However, where the conviction is within 6 months prior to the date of application, or where there is more than one conviction of this type of offence within the last 2 years, the application will normally be refused and no further application should be considered until a period of 3 years, free from convictions, has elapsed.

Other traffic offences

Hackney carriage and private hire drivers are professional drivers charged with the responsibility of carrying the public. Any motoring conviction demonstrates a lack of professionalism and will be considered seriously. 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 or may not result in action against an existing 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.

Major traffic offences

Where an applicant has isolated conviction, without disqualification, for an offence such as dangerous driving and driving without due care and attention a period of 3 years free from conviction will be required before an application will be considered. Applications where there is more than one conviction for this type of offence within the last 5 years will normally be refused

Minor traffic offences

More than one conviction/caution for a minor traffic offence, including a driver awareness course, within the last 2 years will normally merit refusal of a new application and a further application should not normally be considered until a period of at least 3 years, free from convictions/cautions/endorsements, has elapsed.

Where an existing licensed driver receives 9 points or above on their DVLA licence, they will be expected to undertake a driving standards assessment with the council's approved assessor or one of their approved assessor companies. The cost of the assessment

	<p>must be borne by the licensed driver.</p> <p>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. Subsequent convictions reinforce the fact that the licensee does not take their professional responsibilities seriously and appropriate enforcement action will be taken.</p>
<p>Disqualification and Totting Up</p> <p>Where a period of disqualification has been imposed, an application will not be considered until the D.V.L.A. driving licence has been restored for a period of 12 months and no further motoring conviction has been endorsed on it in that period. Should the D.V.L.A. licence demonstrate a further conviction since the disqualification period, then a 12 month period must elapse from the date of the last conviction on the D.V.L.A. licence before an application is approved.</p> <p>In 'totting-up' cases where disqualification is considered by the court, even if the court does not disqualify a driver (eg because of exceptional circumstances) the Council is likely to refuse a hackney carriage or private hire driver's licence application and the applicant will normally be expected to show a period of 12 months free from conviction from the date the court made its finding of exceptional circumstances justifying the non-disqualification.</p>	<p>TT99 Totting up – if the total of penalty points reaches 12 or more within 3 years the driver is liable to disqualification by the Court.</p> <p>There may be occasions where an applicant has accrued sufficient points under totting up for the Court to consider disqualification, but successfully argues that exceptional hardship/circumstances should apply.</p> <p>Where the court does not disqualify a driver (because of exceptional circumstances) an applicant will be expected to show a period of 2 years free from conviction from the date the court made its findings of exceptional circumstances justifying the non-disqualification.</p> <p>Where disqualification does occur for 'totting up' the Council is likely to refuse a hackney carriage or private hire driver's licence application and an application will not be considered until the DVLA driving licence has been restored for a period of 2 years and no further motoring conviction has been endorsed on it in that</p>

	period.
<p>Dishonesty</p> <p>Hackney carriage and private hire vehicle drivers are expected to be persons of trust. The widespread practice of delivering unaccompanied property is indicative of the trust that business people place in drivers. Moreover, it is comparatively easy for a dishonest driver to defraud the public by demanding more than the legal fare etc. Overseas visitors can be confused by the change in currency and become "fair game" for an unscrupulous driver. A serious view will therefore be taken of any conviction involving dishonesty. In general, a period of 3 to 5 years free of conviction should be required before entertaining an application.</p>	<p>Where an applicant has a conviction for any offence of dishonesty, or any offence where dishonesty is an element of the offence, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.</p> <p>Offences involving dishonesty include:</p> <ul style="list-style-type: none"> • Theft • Burglary • Fraud • Benefit fraud • Handing and receiving stolen goods • Forgery • Conspiracy to defraud • Obtaining money or [property by deception • Other deception • Taking a vehicle without consent • Any similar offences (including attempted or conspiracy to commit) • Or offences which replace the above
<p>Drugs</p> <p>A serious view should be taken of convictions of driving or being in charge of a vehicle while under the influence of drink or drugs. An isolated incident should not necessarily debar an applicant but strict warnings should be given as to future behaviour. More than one conviction for these offences should raise grave doubts as to the applicant's fitness to hold a licence. At least 3 years should elapse (after the restoration of the driving licence) before an applicant is considered for a licence.</p>	<p>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.</p> <p>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</p>

	demonstrate that they are not using controlled drugs.
<p>Drink driving/driving under the influence of drugs A serious view should be taken of convictions of driving or being in charge of a vehicle while under the influence of drink or drugs. An isolated incident should not necessarily debar an applicant but strict warnings should be given as to future behaviour. More than one conviction for these offences should raise grave doubts as to the applicant's fitness to hold a licence. At least 3 years should elapse (after the restoration of the driving licence) before an applicant is considered for a licence.</p>	<p>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 seven years have elapsed since the completion of any sentence or driving ban imposed. In the case of driving under the influence of drugs, any applicant may also have to undergo drugs testing at their own expense to demonstrate that they are not using controlled drugs.</p>
<p>Indecency offences An application will not be considered until a period of 3 years free of conviction is shown and any application with a conviction within this category will be put before the Licensing Sub-Committee for determination.</p>	<p>Sexual and indecency offences Where an applicant has a conviction for any offence involving or connected with illegal sexual activity or any form of indecency, a licence will not be granted. In addition to the above, the licensing authority will not grant a licence to any applicant who is currently on the Sex Offenders Register or on any barred list.</p>
<p>Violence An application will not be considered until a minimum period of 3 years free of conviction is shown with the exception of Using Threatening, Abusive Words or behaviour, Breach of the Peace or Drunk and Disorderly, when 2 years for a single offence will be the appropriate period.</p>	<p>Offences involving violence against the person Where an applicant has a conviction for an offence of violence against the person, or connected with any offence of violence, a licence will not be granted until at least 10 years have elapsed since the completion of any sentence imposed.</p> <p>An application will be refused if the applicant has a conviction for an offence that involved the loss of life. A licence will not be granted for an offence such as:</p> <ul style="list-style-type: none"> Murder Manslaughter Manslaughter or culpable homicide while driving Terrorism offences Or any similar offence (including attempted or conspiracy to commit)

Offences which replace the above.

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

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
- Or any similar offences (including attempted or conspiracy to commit)
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A licence will not normally be granted where the applicant has a conviction for an offence or similar offence(s) which replace the

	<p>below offences and the conviction is less than 7 years prior to the date of application:</p> <ul style="list-style-type: none"> • 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 • Any similar offences (including attempted or conspiracy to commit) or • offences which replace the above • <p>A licence will not normally be granted if an applicant has more than one conviction for an offence of a violent nature in the last 10 years.</p>
	<p>ADDITIONAL SECTIONS</p> <p>Options when determining an application/existing licence When determining an application or reviewing an existing licence in relation to convictions or other relevant information the Council have the following options:</p> <ul style="list-style-type: none"> • grant the licence or take no further action • grant the licence with additional conditions • refuse, revoke, or suspend the licence • issue a warning which may include the use of enforcement penalty points

If a licence holder's conduct is such that, were they to be applying for a new licence their application would normally be refused, they should expect consideration to be given as to the suspension or revocation of their licence.

Crimes resulting in death

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

Exploitation

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

Possession of a weapon

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.

Discrimination

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.

Using a hand-held device whilst driving

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.

Hackney Carriage and Private Hire licensing offences

Offences under taxi and private hire and associated legislation such as plying for hire without a licence, overcharging and refusing to carry disabled persons would normally prevent a licence being granted or renewed until a period of 3 years has passed since conviction.

Where an applicant has a conviction for an offence concerned with or connected to hackney carriage or private hire activity (excluding vehicle use), a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

Vehicle use offences

Where an applicant has a conviction for any offence which involved the use of a vehicle (including hackney carriages and private hire vehicles), a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

Vehicle proprietors and Private Hire Operators

A private hire operator (“an operator”) does not have direct responsibility for the safety of passengers, other road users or direct contact with passengers who are in the private hire vehicle (except where they are also licensed as a private hire driver). However, in performing their duties they obtain and hold 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

	<p>criminal or other unacceptable purposes.</p> <p>Vehicle proprietors (both hackney carriage and private hire) have two principal responsibilities. Firstly, they must ensure that the vehicle is maintained to an acceptable standard at all times and secondly, they must ensure that the vehicle is not used for illegal or illicit purposes.</p> <p>Where an applicant/licence holder for either a vehicle licence or private hire operator licence has more than one conviction, serious consideration will need to be given as to whether they are a fit and proper person to be granted or retain a licence.</p>
	<p>Immigration</p> <p>Licensing authorities have the option to suspend or revoke a licence should information be received that causes concern over whether a driver is a fit and proper person. Where the licence holder has been served an immigration penalty or convicted of an immigration offence the licence should be revoked immediately. Guidance for licensing authorities to prevent illegal working in the taxi and private hire vehicle sector has been issued by the Home Office. As with the initial decision to license a driver, this determination must be reached based on the balance of probabilities, not on the burden of beyond reasonable doubt.</p>
	<p>Insurance offences</p> <p>A serious view will be taken of convictions for driving, being in charge of a vehicle without insurance, or allowing person to drive whilst uninsured. A previous isolated incident will not necessarily stop a licence being granted provided an individual has been free of conviction for 3 years. However strict warning should be given as to future behaviour. More than one conviction for these offences will prevent a licence being granted or</p>

renewed.

An operator found guilty of aiding and abetting the driving of passengers for hire and reward without insurance will have his Operator's Licence reviewed with a view to revocation and will not be permitted to hold a licence for a period of at least 3 years from the date of any revocation.

Where a specific offence is not mentioned, a suitable period of time will be determined by reference to offences described. The Council reserves the right to refuse a licence where there are aggravating circumstances, even where these guidelines would otherwise indicate that a licence might be granted.

Summary

A criminal history in itself may not automatically result in refusal and a current conviction for a serious crime need not bar an applicant permanently from becoming licensed. In most cases, an applicant would be expected to have remained free from conviction for 3 to 10 years, according to circumstances, before an application can be considered. If there is any doubt about the suitability of an individual to be licensed, the Council will be mindful of the need to protect the public and caution will be exercised.

While it is possible that an applicant may have a number of convictions that, individually, do not prevent a licence from being granted, the overall offence history will 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. Some discretion may be afforded if an offence disclosed is isolated and there are mitigating circumstances, but the overriding consideration is the protection of the public.