

GENERAL PURPOSES AND LICENSING COMMITTEE – 7 SEPTEMBER 2012

REVIEW OF TAXI LICENSING POLICY – AMENDED WORDING TO THE GUIDELINES RELATING TO THE RELEVANCE OF CONVICTIONS**1 INTRODUCTION**

- 1.1 The purpose of this report is to consider a proposal to amend the Council's guidelines relating to the relevance of convictions which apply to licensed drivers as contained within the current taxi licensing policy.

2 BACKGROUND

- 2.1 As with all other areas of our activities, the local authority is entitled to adopt policies in relation to hackney carriage and private hire licensing. Policies are an integral part of the decision making process, informing and guiding the decision makers and providing a valuable aid to consistent decision making.

- 2.2 In contrast with more recent licensing regimes under the Licensing Act 2003 and Gambling Act 2005, there is no statutory requirement placed upon the local authority to have a taxi licensing policy. Rather these are created voluntarily by the local authority to assist with consistent decision making. It must be made clear that the policy is not a fetter on the discretion of the local authority. Each case must continue to be judged on its own merits, but this can be done in the light of the policies that are applicable. A policy guides, but does not bind, a local authority.

- # 2.3 The current policy guidelines relating to the relevance of convictions that are applied to the licensing of hackney carriage and private hire drivers is attached as **Appendix 1**.

3 POLICY GUIDANCE

- 3.1 The relevant sections contained within the Department for Transport (DfT) Best Practice Guidance for taxi licensing is detailed below:

CRIMINAL RECORDS CHECKS

59. In considering an individual's criminal record, local licensing authorities will want to consider each case on its merits, but they should take a particularly cautious view of any offences involving violence, and especially sexual attack. In order to achieve consistency, and thus avoid the risk of successful legal challenge, local authorities will doubtless want to have a clear policy for the consideration of criminal records, for example the number of years they will require to have elapsed since the commission of particular kinds of offences before they will grant a licence.

4 PROPOSAL

- # 4.1 Proposed changes (as indicated by ***bold italics***) to the wording of the current guidelines is shown in **Appendix 2**.

5 FINANCIAL IMPLICATIONS

- 5.1 There are no financial implications for the Council.

6 ENVIRONMENTAL, CRIME & DISORDER, EQUALITY & DIVERSITY IMPLICATIONS

- 6.1 There are no environmental, crime & disorder or equality & diversity implications arising from this report.

7 CONCLUSION

- 7.1 The aim of local authority licensing of the taxi trade is to protect the public. A policy on previous convictions is vital. It makes it easier for applicants and fairer for existing licence holders, who will then know what considerations will be taken into account in relation to applications and the maintenance of their licence.

8 RECOMMENDATION

- 8.1 The Committee is asked to consider the proposal in paragraph 4.1, as set out in Appendix 2 and decide if the current taxi licensing policy needs amending.

Further information:

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Background Papers:

NFDC Taxi Licensing Policy
DfT Best Practice Guidance



NEW FOREST DISTRICT COUNCIL GUIDELINES RELATING TO THE RELEVANCE OF CONVICTIONS

Each case will be decided on its own merits. A person with a current conviction for serious crime need not be permanently barred from obtaining a licence but will be expected to remain free of conviction for 3 to 5 years, according to the circumstances, before an application is entertained. Some discretion may be appropriate if the offence is isolated and there are mitigating circumstances. However, the overriding consideration will be the protection of the public. The following is a general guide where convictions are admitted.

(a) Minor Traffic Offences

Convictions for minor traffic offences, e.g. obstruction, waiting in a restricted street, speeding etc., should not prevent a person from proceeding with an application. If sufficient points have been accrued to require a period of disqualification of the applicant's driving licence then a hackney carriage or PHV licence may be granted after its restoration but a warning will be issued as to future conduct.

(b) Major Traffic Offences

An isolated conviction for reckless driving without due care and attention etc., will normally merit a warning as to future driving and advice on the standard expected of hackney carriage and PHV drivers. More than one conviction for this type of offence within the last two years will merit refusal and no further application will be considered until a period of 1 to 3 years free from convictions has elapsed.

(c) Drunkenness/Intoxication/Alcohol Abuse

A serious view will be taken of convictions of driving a motor vehicle with excess alcohol or being in charge of a vehicle with excess alcohol or failing to provide a specimen of blood, breath or urine as required.

An applicant shall not normally be granted a licence if the applicant has been convicted of an offence of driving with excess alcohol or failing to provide a specimen of blood, breath or urine as required, unless three years have elapsed since the restoration to him/her of a full United Kingdom driving licence.

In the event of a conviction of being in charge of motor vehicle with excess alcohol:-

- (i) When the applicant has been disqualified for any period, an application shall not normally be granted until at least three years have elapsed from the restoration to him/her of a full United Kingdom driving licence;
- (ii) Alternatively, whether or not an applicant has been disqualified, a period of three years from the restoration to him/her of a full United Kingdom driving licence or from the date of conviction whichever is the greater, should normally elapse before an application may be granted.

Any alcohol related conviction may be deemed prima facie evidence of an alcohol problem and the Licensing Committee may require the applicant to provide medical or other evidence to enable the determination of whether or not it is appropriate to issue a licence.

If a Hackney Carriage or Private Hire Driver is convicted of an alcohol related offence, the Licensing Committee may suspend the Licensee and require the Licence Holder to provide medical or other evidence to enable the Committee to determine whether or not it is appropriate to restore the licence.

(NOTE: Applicants who have been medically diagnosed as having an alcohol related problem cannot ordinarily expect to be licensed without medical evidence supporting their fitness)

(d) Drugs

A serious view will be taken of convictions of driving a motor vehicle while under the influence of drugs. In the event of a conviction of being in charge of a motor vehicle while under the influence of drugs an applicant should be able to show a period of at least three years free from convictions before an application is granted.

Any drug related conviction may be deemed prima facie evidence of a drug problem and the Committee may require the applicant to provide medical or other evidence to enable the determination of whether or not it is appropriate to issue a licence.

(NOTE: Applicants who have been medically diagnosed as addicts cannot ordinarily expect to be licensed within five years of completion of treatment).

(e) Indecency Offences

As hackney carriage and PHV drivers often carry unaccompanied passengers, applicants with convictions for indecent exposure, indecent assault, importuning, any of the more serious sexual offences, will be refused until they can show a substantial period (at least 3 to 5 years) free of such offences. More than one conviction of this kind will preclude consideration for at least 5 years. In either case if a licence is granted a strict warning as to future conduct will be issued.

(f) Violence

As hackney carriage and PHV drivers maintain close contact with the public, a firm line will be taken with applicants who have convictions for grievous bodily harm, wounding or assault. At least 3 years free of such convictions should be shown before an application is entertained and even then a strict warning will be administered.

(g) Dishonesty

Hackney carriage and PHV 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. For these reasons a serious view will be taken of any conviction involving dishonesty. In general, a period of 3 to 5 years free of conviction will be required before entertaining an application.



NEW FOREST DISTRICT COUNCIL GUIDELINES RELATING TO THE RELEVANCE OF CONVICTIONS

Each case will be decided on its own merits. A person with a current conviction for serious crime need not be permanently barred from **holding**/obtaining a licence but will be expected to remain free of conviction for 3 to 5 years, according to the circumstances, before an application is entertained. Some discretion may be appropriate if the offence is isolated and there are mitigating circumstances. However, the overriding consideration will be the protection of the public. The following is a general guide where convictions are admitted. ***This guidance applies where the Licensing Committee is considering an application for a new private hire or hackney carriage vehicle driver's licence, and where it is considering whether to revoke an existing licence.***

(a) Minor Traffic Offences

Convictions for minor traffic offences, e.g. obstruction, waiting in a restricted street, speeding etc., should not prevent a person from proceeding with an application **and should not normally lead to the revocation of an existing licence**. If sufficient points have been accrued to **lead to** a period of disqualification of the applicant's/**licence-holder's** driving licence then a licence may be granted after its restoration, but a warning will be issued as to future conduct.

(b) Major Traffic Offences

An isolated conviction for reckless driving without due care and attention etc., will normally merit a warning as to future driving and advice on the standard expected of HCV and PHV drivers. More than one conviction for this type of offence within the last two years will usually merit refusal/**revocation** and no further application will be considered until a period of 1 to 3 years free from convictions has elapsed.

(c) Drunkenness/Intoxication/Alcohol Abuse

A serious view will be taken of convictions for driving a motor vehicle with excess alcohol, being in charge of a vehicle with excess alcohol, failing to provide a specimen of blood, breath or urine as required, causing death by dangerous driving under the influence of alcohol, or any similar offence (referred to in this guidance as "drink driving offences").

Where an existing licence holder is convicted of a drink driving offence, they can expect to have their licence revoked.

An applicant with a conviction for a drink driving offence shall not normally be granted a licence: -

- (i) When the applicant has been disqualified for any period, until at least three years have elapsed from the date of conviction, or from restoration to him/her of a full United Kingdom driving licence, whichever is the longer period;***
- (ii) Where the applicant was not disqualified from driving, until at least three years from the date of conviction.***

Any alcohol related conviction (***whether or not for a drink driving offence***) may be deemed prima facie evidence of an alcohol problem and the Licensing Committee may

require the applicant **or existing licence-holder** to provide medical or other evidence to enable the **Committee to determine** whether or not it is appropriate to issue a licence, **or to revoke an existing licence**.

Where an existing licence holder is convicted of an alcohol-related offence, the Licensing Committee may suspend the licence holder, pending its final decision about whether to revoke the licence.

(NOTE: Applicants/**existing licence-holders** who have been medically diagnosed as having an alcohol related problem cannot ordinarily expect to be licensed without medical evidence supporting their fitness)

(d) Drugs

A serious view will be taken of convictions of driving **or attempting to drive** a motor vehicle while under the influence of drugs, **being in charge of a motor vehicle whilst unfit, failing to provide an evidential specimen, or causing death by dangerous driving under the influence of drugs (referred to in this guidance as “drug driving offences”)**.

Where an existing licence holder is convicted of a drug driving offence they can expect to have their licence revoked.

In the event of a conviction for a drug driving offence, an applicant should normally be able to show a period of at least three years free from conviction before an application is granted.

Any drug related conviction (**whether or not for a drug driving offence**) may be deemed prima facie evidence of a drug problem and the Committee may require the applicant **or existing licence-holder** to provide medical or other evidence to enable the **Committee to determine** whether or not it is appropriate to issue a licence, **or to revoke an existing licence**.

Where an existing licence holder is convicted of a drug related offence, the Licensing Committee may suspend the licence holder, pending its final decision about whether to revoke the licence.

(NOTE: Applicants who have been medically diagnosed as addicts cannot ordinarily expect to be licensed within five years of completion of treatment).

(e) Indecency Offences

As hackney carriage and PHV drivers often carry unaccompanied passengers, applicants with convictions for any sexual offence, will be refused until they can show a substantial period (at least 3 to 5 years from the date of conviction) free of such offences. **Existing licence holders who are convicted of any sexual offence can expect their licence to be revoked.** More than one conviction for a sexual offence will preclude consideration **for a licence** for at least 5 years. In either case if a licence is granted a strict warning as to future conduct will be issued.

(f) Violence

As hackney carriage and PHV drivers maintain close contact with the public, a firm line will be taken with applicants who have convictions for **violent offences**. **An applicant should normally be able to show a period of at least three years free from conviction for a violent offence before an application is granted. An existing**

licence-holder convicted of a violent offence can expect to have their licence revoked.

(g) Dishonesty

Hackney carriage and PHV 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. For these reasons a serious view will be taken of any conviction involving dishonesty. In general, a period of 3 to 5 years free of conviction will be required before an application is ***considered or maintained.***