

Appendix B – Convictions’ Policy

1.0 Introduction

This policy provides guidance on the criteria taken into account by New Forest District Council (‘the Licensing Authority’) when determining whether or not an applicant or an existing licence holder is a fit and proper person to hold a dual driver licence or operator licence.

The decision maker will consider all relevant factors when determining applications, including previous convictions, cautions and complaints and the time that has elapsed since these were committed.

The overriding aim of the Licensing Authority is to protect the safety of the public and they will aim to ensure that any person licensed to drive a hackney carriage or private hire vehicle or an operator:

- is a fit and proper person; and
- does not pose a threat to the public.

It will also aim to ensure that the public, in particular, children, young persons and vulnerable adults are adequately safeguarded.

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 Licensing Authority will consider enhanced conviction history, driving history and any offences, Right to Work in the UK and medical fitness, together with any other relevant information.

Where licensing officers have delegated powers to grant licences, they will use these guidelines when making a decision to grant a licence. In certain circumstances applications for licences will be referred to the Licensing Sub-Committee. Whilst officers and Elected Members 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.

The type of offence, pattern of behaviour and overall history should be taken into consideration when determining an application.

In addition, these factors will also be taken into account when action against a licence holder is being considered.

2.0 Appeals

Any applicant who is refused a driver or operator licence on the grounds that the Licensing Authority is not satisfied that they are ~~not a~~ fit and proper person to hold such a licence has a right to appeal to the Magistrates’ Court within 21 days of the notice of refusal.

Any driver or operator who has his/her licence revoked on the same grounds also has the right to appeal to the Magistrates' Court within 21 days of the notice of revocation.

3.0 Powers

Sections 61 and 62 of the Local Government Miscellaneous Provisions Act 1976 allow the licensing authority to suspend, revoke or refuse to renew a driver's or operator's licence respectively if the applicant/licence holder has been convicted of an offence involving dishonesty, indecency, violence; or an offence related to immigration; failure to comply with the provisions of the Town Police Clauses Act 1847; failure to comply with the provisions of Part II of the Local Government (Miscellaneous Provisions) Act 1976; or any other reasonable cause. The commission of an offence or a serious allegation which falls within this policy and brings into question whether a licensed driver or operator is a fit and proper person to continue to hold a licence may lead the Licensing Authority to conclude that there is a "reasonable cause" to suspend, revoke or refuse to renew their licence.

The Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975, as amended, allows the Licensing Authority to take into account all convictions recorded against an applicant or the holder of a driver licence, whether spent or not. Therefore, the Licensing Authority will have regard to all relevant convictions or cautions, particularly where there is a long history of offending or a recent pattern of repeat offending.

4.0 Consideration of disclosed criminal history

Under the provisions of Sections 51, 55, and 59 of the Local Government (Miscellaneous Provisions) Act 1976, the Licensing Authority is required to ensure that any applicant for the grant or renewal of a hackney carriage and/or a private hire vehicle driver licence and/or private hire operator 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 investigate all matters disclosed and any other matters that may be relevant.

Licensed drivers and operators are required to notify the Licensing Authority in writing within 48 hours of an arrest and release, charge or conviction of any sexual offence, any offence involving dishonesty or violence or any motoring offence or receipt of a police caution. Failure to do so will call into question the fitness and propriety of the licensee.

The Licensing Authority requires an enhanced disclosure certificate from the DBS for any new or renewal driver licence application. Applicants for an operator licence will be required to obtain a basic DBS check at their own expense (unless they are the holder of a current hackney carriage or private hire driver's licence issued by NFDC).

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 or any other third party.

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.

For renewal applications and current licence holders, the policy will not be applied retrospectively where there are no new concerns or convictions. The policy will be applied to existing licence holders if any additional convictions are incurred, or they are otherwise brought to the attention of the Licensing Authority for conduct that would call into question a person's suitability to hold a licence.

Offences not covered by this policy will be considered by the Licensing Authority when determining whether the applicant/licensed driver or operator is a fit and proper person.

5.0 Conviction guidelines

This ~~Appendix~~ following guidance is based on the Institute of Licensing document: "Suitability Guidance" issued in 2024. This replaces the previous version issued in 2018~~"Guidance on determining the suitability of applicants and licensees in the hackney and private hire trades"~~, together with the "Statutory Taxi and Private Hire Standards" document published by the Department for Transport in July 2020 and updated in November 2022.

These documents have been widely adopted by Licensing Authorities in the UK ~~to and has been produced to~~ promote consistency, raise standards and assist in the protection of the public.

5.1 Offences 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.

5.2 Offences involving exploitation and criminal harassment

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 exploitation, grooming, psychological, emotional or financial abuse, stalking without violence, but this is not an exhaustive list.

5.3 Offences involving violence against persons, property or the State

Violence includes situations where the victim is put in fear, alarm or distress without any physical contact. It is accepted that the concept of "violence" is wide, but any such behaviour will be of concern. This appendix does not

differentiate between levels of violence. It will be for the licensing authority to determine whether there is any justification for departing from this time period, dependant of the facts of a particular case.

Where an applicant has a conviction for an offence of violence, 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. Where the offence of violence was committed against a child or vulnerable adult, a licence will never be granted.

5.4 Offences involving Public Order

Where an applicant has a conviction for a public order offence or similar that is not itself an act of violence, a licence will not be granted for a period of 5 years.

5.54 Offences involving 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 ~~7~~seven years have elapsed since the completion of any sentence imposed.

5.65 Offences involving Sex, indecency or obscene materials

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. This includes any sexual harassment.

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.

5.76 Offences involving Dishonesty

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~~seven years have elapsed since the completion of any sentence imposed.

5.87 Offences involving the use, possession or supply of Drugs

Where an applicant has any conviction for, or related to, the production, import, trade in, or 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.

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 5 years have elapsed since the completion of any sentence imposed.

5.9 Offences involving Alcohol abuse, Misuse or Dependency

Where an applicant has any conviction for, or related to drunkenness not in a motor vehicle, a licence will not be granted until at least 5 years have elapsed

since the completion of the sentence imposed. If the applicant has a number of convictions for drunkenness and or there are indications of a medical problem associated with possible abuse, misuse of, or dependence on alcohol, the applicant will also be subject to additional medical testing/assessment before the application is considered. If the applicant was found to be dependent on alcohol, a licence will not be granted unless at least 5 years have elapsed since the dependency ceased.

5.108 Offences involving Discrimination

Where an applicant has a conviction involving or connected with discrimination in any form, including non-compliance with the Equality Act 2010 a licence will not be granted until at least 7seven years have elapsed since the completion of any sentence imposed. This includes refusal to carry assistance dogs or to provide mobility assistance.

5.11 Offences involving Regulatory non-compliance

Regulatory crimes include local authority offences, licensing matters, and other offences prosecuted by other authorities. It also includes matters relating to the administration of justice such as failing to surrender to bail, and any other matter where regulations or requirements have been ignored or broken. These offences demonstrate a lack of compliance with legal requirements which would clearly be a worry in relation to taxi and private hire licensees. Serious consideration would need to be given as to whether they are a safe and suitable person to hold a licence.

5.129 Motoring convictions

Drivers of hackney carriages and private hire vehicles 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 normally prohibit the grant of a licence or may not result in action against an existing licence. Any subsequent convictions reinforce the fact that the licensee does not take their professional responsibilities seriously and is therefore not a safe and suitable person to be granted or retain a licence.

5.130 Offences involving Drink driving or driving under the influence of drugs

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 7seven years have elapsed since the completion of any sentence or driving ban imposed, whichever is the later.

5.1~~41~~ Using a hand-held telephone or handheld device whilst driving

Where an applicant has a conviction for using a hand-held mobile telephone or a hand-held device whilst driving, a licence will not be granted until at least 5 years have elapsed since the conviction or completion of any sentence or driving ban imposed, whichever is the later.

5.1~~52~~ Other motoring offences

A minor traffic or vehicle related offence is one which does not involve loss of life, driving under the influence of drink or drugs, driving whilst using a mobile phone, and has not resulted in injury to any person or damage to any property (including vehicles).

A driver licence will not be granted to any new driver applicant who has 9 or more points for minor motoring convictions showing on their driving licence.

Existing licence holders reaching seven or more points for minor motoring convictions will receive a warning and will be required to attend appropriate training, as defined by the authority, at their own expense.

Existing licence holders reaching ~~9~~nine points or more for minor motoring convictions and who have previously attended training under this policy may have their licence refused or revoked dependent on the individual circumstances of the driver concerned and offences omitted. In considering such action, the intention of the policy will be to only refuse or revoke a licence where there are very clear concerns for public safety.

Any offence which resulted in injury to any person or damage to any property (including vehicles), or any insurance offence then a licence will not be granted until at least 7 years have elapsed since the completion of any sentence.

5.1~~63~~ Hackney carriage and private hire offences

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

6.0 Outstanding charges or summonses

If an applicant is the subject of an outstanding charge or summons their application will be held and not progressed until the outcome of the proceedings has been determined.

7.0 Non-conviction information

If an applicant has been arrested or charged, but not convicted, for a serious offence which falls within the policy which suggests they could be a danger to the public, consideration will be given, under the Council's scheme of delegation to refusing the application or revocation if licensed.-

In assessing the action to take, the safety of the travelling public must be the paramount concern.

8.0 Behaviours

Driver behaviours that fall short of criminal behaviour but are indicators of more sinister behaviour need to be addressed to maintain confidence in the taxi trades and to stop unwanted behaviours before they evolve into criminal acts.

Behaviours such as

- Asking a passenger for their contact or social media details
- Asking personal or intimate questions
- Inappropriate physical contact with passengers or invade their personal space
- Inappropriate conversations, questions or behaviour

This is more important if the passenger is a lone vulnerable individual.

Except in the most serious of cases, drivers should be given a warning in the first instance, if appropriate sent on refresher safeguarding training and explained how the behaviour maybe perceived by a vulnerable passenger.

If the behaviour, on the balance of probability, is repeated and considered to be predatory in nature then any applicant should not be licensed.

8.0 Cautions

An admission of guilt is required before a caution can be issued; therefore cautions are treated the same as a conviction and applied as above pertinent to the type of offence. Every case will be considered on its own merits including the details and nature of the offence.

9.0 Licences issued by other licensing authorities

Applicants who hold a licence with one licensing authority should not automatically assume that their application will be granted by another. Each case will be decided on its own merits.

Licensees who are licensed by multiple authorities are expected to inform all such authorities of the authorities that they are licensed by and to advise each authority of any changes in this respect. They should expect those authorities to share information regarding their conduct and to take it into account as appropriate.

One of the background checks carried out for new and renewal drivers, involves a review of the National Anti-Fraud Network (NAFN) NR3S database. Officers will check the applicant's name against the NR3S Register held by NAFN to determine if another Licensing Authority has taken action against the

applicant/driver. If a positive match is found, background information will be obtained and considered by the Licensing Authority.

The register provides names of all those drivers/applicants who have had a licence application refused, revoked or suspended.

This is to protect the public and ensure that any driver who has been revoked or refused a licence does not obtain a licence with another authority, by simply failing to supply previous licence history. The database provides the opportunity for every Local Authority to properly consider applicants and the background to a previously refused or revoked licence, by another authority.

Licensing authorities will retain the reasons for any refusal, revocation or suspension and provide those to other authorities as appropriate under the terms and conditions of the database.

Where this Licensing Authority has refused to grant a driver licence to an applicant or has had a licence revoked or suspended, or it has expired during a period of suspension, no new application will be considered for a at least three years (in line with the time periods above) from the date of refusal, revocation or expiry.

Any application subsequently received, will be determined by members of a Licensing Sub-Committee who will consider the applicant's history and background.

10.0 Summary

It is vital that passengers, other road users and society have confidence in the licensing regime and can rely on the suitability of all those involved in providing licensed vehicles. Careful consideration must be given to all applications and a thorough vetting of applicants must be undertaken.

This Appendix is intended to assist the Licensing Authority in determining the suitability of applicants and licensees. It also provides clear guidance for applicants and licence holders with regard to the standards expected by the Authority.