

# Taxi and Private Hire Licensing Assessment of Previous Convictions

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## **1. Introduction**

- 1.1. The purpose of this document is to provide guidance on the criteria to be taken into account by the licensing authority when determining whether or not an applicant or an existing licence holder is a fit and proper person to hold a hackney carriage driver and/or private hire vehicle driver or private hire vehicle operator licence.
- 1.2. 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 fit and proper
  - 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
- 1.3. This guidance is relevant to any person with an interest in taxi and private hire licensing. In particular, but not exclusively:
  - Applicants for drivers' licences
  - Existing licensed drivers whose licences are being reviewed
  - Officers of the Council
  - Members of the Licensing Committee
  - Magistrates hearing appeals against local authority decisions.
- 1.4. Where officers have delegated powers to grant licences, they will utilise these guidelines when making decisions to grant a licence. Whilst officers will have regard to the guidelines, each case will be considered on its individual merits and, where the circumstances demand, the officer may depart from the guidelines.
- 1.5. There may be occasions where it is appropriate to depart from the guidelines, for example where the offence is a one-off occasion or there are mitigating circumstances.
- 1.6. A person with a conviction for a serious offence need not be automatically barred from obtaining a licence, but will 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.
- 1.7. Where an applicant has been convicted of a criminal offence, the licensing authority cannot review the merits of the convictions [Nottingham City Council v. Mohammed Farooq (1998)].
- 1.8. In this document the word 'conviction' is defined as including convictions, cautions, warnings, reprimands and other relevant information.
- 1.9. The Council reserves the right to overturn or annul a decision that has previously been made, or refuse a renewal of a licence, where clear errors are discovered.

## **2. Powers**

- 2.1. Sections 61 and 62 of the Local Government (Miscellaneous Provisions) Act 1976 allow the licensing authority to suspend, revoke or refuse to renew a licence if the

applicant/licence holder has been convicted of an offence involving dishonesty, indecency, violence; 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 if he/she has since the grant of the licence been convicted of an immigration offence or been required to pay an immigration penalty, or for any other reasonable cause.

### **3. Appeals**

- 3.1. Any applicant refused a driver's licence or operator's licence on the grounds that the licensing authority is not satisfied he or she is a fit and proper person to hold such a licence has right to appeal to the Magistrates' Court within 21 days of the notice of refusal [Local Government (Miscellaneous Provisions) Act 1976, s 77(1)].
- 3.2. Any licensee whose licence is suspended or revoked has a right to appeal to the Magistrates' Court within 21 days of the notice of refusal.

### **4. Consideration of disclosed criminal history**

- 4.1. 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 drivers' licence, whether spent or not. Therefore the licensing authority will have regard to all relevant convictions, particularly where there is long history of offending or a recent pattern of repeat offending.
- 4.2. 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 consider:
  - 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
- 4.3. Existing holders of a drivers' licence are required to notify the licensing authority in writing within 5 days of receiving a driving licence endorsement, fixed penalty notice or criminal conviction (including cautions). Existing holders of a drivers licence must inform the licensing authority in writing within 3 working days of their arrest for any matter (whether subsequently charged or not).

- 4.4. Applicants can discuss what effect a caution/conviction may have on any application by contacting the Licensing Officer for advice.
- 4.5. In this guidance 'from date sentence has ended' is taken to be the date which is reached once the whole period as sentenced by the court has elapsed and not necessarily the length of time served by the applicant. If the sentence is amended by a court at a later date then this new sentence becomes relevant. The term 'since completion of sentence' is to be construed in a similar way.
- 4.6. It is an offence for any person knowingly or recklessly to make a false declaration or to omit any material required by the application for a licence (Local Government (Miscellaneous Provisions) Act 1976, s57). 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.

## **5. Crimes resulting in death**

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

## **6. Exploitation**

- 6.1. 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, however, this is not an exhaustive list.

## **7. Offences involving violence against the person**

- 7.1. 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.
- 7.2. A licence will not normally be granted if an applicant has more than one conviction for an offence of a violent nature.

## **8. Other serious offences**

- 8.1. A licence will not normally be granted until at least 10 years have passed since the completion of any sentence and/or licence period following conviction for one of the serious offences shown below:
  - Arson
  - Riot
  - Violent disorder
  - Affray
  - Any offence (including attempted or conspiracy to commit offences) similar to those above.

- 8.2. Consideration may only be given to the granting/issuing of a licence if at least 7 years have passed since the completion of any sentence and/or licence period following conviction for an offence shown below:
- Obstruction
  - Criminal damage
  - Any offences (including attempted or conspiracy to commit offences) that are similar to those above.
- 8.3. A licence will not normally be granted if an applicant has more than one conviction for one of the serious offences above.

## **9. Possession of a weapon**

- 9.1. 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 7 years have elapsed since the completion of any sentence imposed.
- 9.2. A licence will not normally be granted if an applicant has more than one conviction for an offence involving possession of a weapon.

## **10. Sexual offences**

- 10.1. Where an applicant has a conviction for any offence involving or connected with illegal sexual activity, a licence will not be granted.
- 10.2. 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.

## **11. Dishonesty**

- 11.1. Where an applicant has a conviction for any offence where dishonesty is an element of the offence, including:
- Theft
  - Burglary
  - Fraud
  - Benefit fraud (including offences under ss.111A and 112 of the Social Security Administration Act 1992)
  - Handling or receiving stolen goods
  - Forgery
  - Conspiracy to defraud
  - False representation
  - Obtaining money or property by deception
  - Other deception
  - Taking a vehicle without consent
  - Fare overcharging
  - Failing to declare convictions etc. on application
  - Failure to notify the Licensing Authority of a revocation or refusal by another Licensing Authority

- Or similar offences (including attempted or conspiracy to commit) or offences which replace the above offences.
- 11.2. Failure of the licence holder to disclose an arrest that the licensing authority is subsequently advised of, may be viewed as behaviour that questions the honesty and therefore suitability of the licence holder, regardless of the outcome of the initial allegation.
  - 11.3. A licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.
  - 11.4. A licence will not normally be granted if an applicant has more than one conviction for a dishonesty offence.
  - 11.5. Applicants or existing licence holders that are found to have intentionally misled the licensing authority, or lied as part of the application process, will normally be refused or revoked.

## **12. Discrimination**

- 12.1. Where an applicant has a conviction involving or connected with discrimination in any form, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

## **13. Drugs**

- 13.1. 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 normally be granted.
- 13.2. 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 5 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.
- 13.3. A licence will not normally be granted where the applicant has more than one conviction for offences related to the possession of drugs and has not been free of conviction for 10 years or at least 10 years have passed since the completion of any sentence and/or licence period, whichever is the greater. There will then be full consideration of the nature of the offences and the quantity/type of drugs involved.

## **14. Drink driving/driving under the influence of drugs**

- 14.1. A serious view is taken of convictions for driving, or being in charge of a vehicle while under the influence of drink or drugs.
- 14.2. At least 7 years, after the restoration of the DVLA driving licence following a drink driving conviction should elapse before an application will be granted.
- 14.3. If there is evidence of persistent drugs or alcohol use, misuse or dependency a specialist medical examination (in accordance with DVLA Group 2 medical standards) and a satisfactory medical report may be required before the licence is granted. If the applicant was an addict then they would be required to show evidence of 8 years free from drug taking after detoxification treatment.

## **15. Motoring convictions**

- 15.1. Hackney carriage and private hire 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.
- 15.2. At least three years should elapse (after the restoration of the DVLA driving licence), before a licence would be granted for a Hackney Carriage or Private Hire drivers licence.
- 15.3. Traffic offences such as obstruction, some speeding offences (usually dealt with by means of a fixed penalty), pedestrian crossing offences, traffic light offences, waiting in a restricted area, or offences of a similar nature may not ordinarily merit refusal.
- 15.4. Traffic offences such as driving without due care and attention, reckless driving, more serious speeding offences (usually dealt with by a court), or offences of a similar nature will give rise to serious doubts about the applicant's suitability to be a driving professional. An applicant with any such convictions will be required to show a period of at least 1 year free of such convictions. For applicants with more than one offence this should normally be increased to 2 years.
- 15.5. In cases where the courts have imposed a disqualification in respect of the DVLA driving licence, the periods stated above should normally commence from the date of the restoration of the licence.
- 15.6. In these guidelines, 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. Using a hand-held device whilst driving**

- 16.1. 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 5 years have elapsed since the conviction or completion of any sentence or driving ban imposed, whichever is the later.

## **17. Non-conviction information**

- 17.1. The licensing authority will take into account intelligence which has not led to a conviction. This may include but not be limited to information regarding acquittals, circumstances in which convictions were quashed due to misdirection to the jury, circumstances where the decision was taken not to prosecute, situations where the person has been arrested and bailed but not yet charged, and complaints from the public. In considering the most appropriate action to take following the receipt of information, the credibility of both the witness/complainant and the licence holder will be taken into account.



- 17.2. A licence will not normally be granted until at least 1 year has lapsed since a Criminal Behaviour Order.
- 17.3. If an applicant has been arrested or charged, but not convicted, for a serious offence which suggests he could be a danger to the public, consideration may be given to refusing the application or revoking an existing licence.
- 17.4. In assessing the action to take, public safety will be the paramount concern, decisions will be taken on balance of probability.

## **18. Licensing offences**

- 18.1. Where an applicant has a conviction for an offence concerned with or connected to hackney carriage or private hire activity, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.
- 18.2. A licence will not normally be granted if an applicant has more than one conviction for a licensing related offence.

## **19. Insurance offences**

- 19.1. A serious view will be taken of convictions for driving, being in charge of a vehicle without insurance or allowing a 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 renewed.
- 19.2. An operator found guilty of aiding and abetting the driving of passengers for hire and reward without insurance will have the 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.