

TRAFFORD COUNCIL

Report to: Public Protection Sub-Committee
Date: 16th April 2015
Report for: Decision
Report of: Head of Regulatory Services

Report Title

AMENDMENTS TO THE COUNCIL'S CONVICTIONS GUIDELINES

Summary

The report proposes amendments to the Council's guidelines relating to the relevance of convictions, formal/ simple cautions, complaints and other matters which may impact on the granting of a hackney carriage or private hire licence (the conviction guidelines).

Recommendation(s)

The Sub-Committee is invited to consider the report and either:

- Adopt the amended conviction guidelines;
- Make a recommendation on an alternative proposal; or
- Make no changes

Contact person for access to background papers and further information:

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Background Papers: None

1.0 BACKGROUND

- 1.1 Relevant legislation provides that the Council shall not grant a licence to hackney carriage proprietors (drivers), private hire drivers and operators unless satisfied the applicant is fit and proper to hold such a driver licence. Similarly an existing licence holder should only retain a licence whilst they remain fit and proper.
- 1.2 In determining whether a person is fit and proper Members are entitled to review a person's history of offending and general previous conduct. In particular the Council is concerned to ensure the public are not exposed to persons with a history of dishonesty, indecency or violence and the safeguarding of children, young persons and vulnerable adults.
- 1.3 For a number of years the Public Protection Sub-Committee has used conviction guidelines when determining the fit and proper status of applicants and licence holders.
- 1.4 The guidelines were developed by the AGMA Licensing Managers' Group. The guidelines are periodically reviewed by the group; such a review has resulted in this report.
- 1.5 Members are entitled to deviate from the guidelines. Where a decision departs from the guidelines Members should give clear reasons for doing so.

2.0 COMPARISON WITH CURRENT GUIDANCE

- 2.1 The position on matters other than convictions and an appearance at the Sub-Committee is clarified. Within the guidelines the word "issue" is used. This includes complaints made to the Council, Police, Operators or any other agency; breaches of licensing conditions and intelligence received from other agencies (including circumstances which have not resulted in a criminal conviction, caution or other disposal). As an example incidents which have resulted in a police investigation where there has been no further action due to the criminal burden of proof will still be considered if the Sub-Committee is satisfied that the incident occurred based on the balance of probabilities.
- 2.2 Restorative justice and other criminal disposals are increasingly used by the Police as a less formal way of dealing with issues and as an alternative to the criminal court system. The Council recognises that restorative justice and other out of court disposals tend to be applied in many cases including first time offenders, nevertheless all such disposals will be taken into account when determining if a person is a fit and proper person.
- 2.3 In addition to checks made to the Disclosure Barring Service Officers will, where appropriate, contact other agencies (Housing providers, BSCB, Children's Services and Greater Manchester Police etc) for any relevant information they may hold. Any information gained will be kept in strict confidence and will be retained no longer than is necessary and in any event will be destroyed in accordance with the requirements of the Data Protection Act 1998. The Council will sometimes be made aware of other intelligence or low level information about an individual which has not resulted in the conviction of that person but is relevant in relation to their character. Officers will give appropriate consideration to this information and will seek to consult with other appropriate agencies in

order to ensure that they have a comprehensive understanding. Where appropriate, officers will refer such information/ intelligence to an independent allegations management process. Any additional information gathered through this process may then be taken into account at any subsequent Sub-Committee hearing.

- 2.4 Where Panel is convened as a result of sensitive information being received by the Council an assessment will be undertaken in balancing a person's right to a fair hearing against whether or not it is in the public interest to hold the hearing ex-parte.
- 2.5 The conviction guidelines have been in use for many years and have assisted Members in making fair and consistent responses to licence applications and when dealing with licence holders appearing before the Public Protection Sub-Committee.
- 2.6 The proposed amendments are designed to update the existing document.

3.0 Options

- 3.1 The Sub-Committee is invited to consider the report and either:
 - 3.1.1 Adopt the amended conviction guidelines;
 - 3.1.2 Make a recommendation on an alternative proposal; or
 - 3.1.3 Make no changes

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**STATEMENT OF POLICY AND GUIDELINES
RELATING TO THE RELEVANCE OF
CONVICTIONS, FORMAL / SIMPLE CAUTIONS,
COMPLAINTS AND OTHER MATTERS WHICH MAY
IMPACT ON THE GRANTING OF A LICENCE**



**Public
Protection
Partnership**

GREATER MANCHESTER

4th December 2014

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STATEMENT OF POLICY ABOUT RELEVANT CONVICTIONS

NOTE: In the Council's view this statement and the guidelines that follow are compatible with the rights and freedoms under the European Convention on Human Rights.

This document aims to provide guidance to any person with an interest in public and private hire licensing. In particular, but not exclusively:

- Applicants for drivers' licences
- Existing licensed drivers whose licences are being reviewed
- Applicants for operators licences
- Existing licensed operators whose licences are being reviewed
- Licensing Officers
- Members of the Licensing Committee/ Panel (or other relevant decision making body)
- Magistrates hearing appeals against local authority decisions
- Greater Manchester Police

Thereby providing transparency and consistency across the AGMA region, in accordance with the principles of good enforcement and relevant Regulatory Compliance Codes.

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 Licensing Committee/ Panel (or other relevant decision-making body). Whilst Officers and the Committee/ Panel 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.

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Background

1. In this policy the word "individual" includes an existing licence holder, an applicant for a new licence, and an applicant for the renewal of an existing licence.
2. Licences for drivers of hackney carriages, private hire vehicles or private hire operator may only be granted where the Council is satisfied that the individual is a fit and proper person to hold such a licence.
3. In this policy the word "issue" is used. This includes complaints made to the Council, Police, Operators or any other agency, breaches of licensing conditions and intelligence received from other agencies (including circumstances which have not resulted in a criminal conviction, caution or other disposal). E.g. incidents which have resulted in a police investigation where there has been no further action due to the criminal burden of proof will still be considered if Committee/panel is satisfied that the incident occurred based on the balance of probabilities)
4. Licences for operators of private hire vehicles may only be granted where the Council is satisfied that the individual is a fit and proper person to hold such a licence.
5. The document is intended to give guidance on one aspect of whether a person is or is not a fit and proper person namely the situation where a person has previous convictions and cautions.
6. The Council is concerned to ensure:
 - a. That a person is a fit and proper person.
 - b. The public are not exposed to persons with a history of dishonesty, indecency or violence.
 - c. The safeguarding of children and young persons and vulnerable adults.
7. The public are not normally permitted to attend Committee hearings for private hire, hackney carriage driver applications or private hire operator applications or reviews, however, in determining whether to grant a licence the committee or Officers will take into account the human rights of the wider public and balance these against the human rights of the applicant.
8. When submitting an application for a licence to drive a hackney carriage or private hire vehicle, or for an operators licence, individuals are required to declare all previous convictions they may have. Individuals are also required to declare all formal/simple cautions, any matters of restorative justice and all fixed penalties and all endorsable fixed penalties they have received and to provide details of all criminal matters of which they are currently the subject of criminal investigation or prosecution.

9. The information given will be treated in confidence and will only be taken into account in relation to the relevant application to assist the Council in determining whether the applicant is a fit and proper person to hold a licence for the purposes of sections 51, 55 and 59 of the Local Government (Miscellaneous Provisions) Act 1976, or whether the Council should exercise any of its powers under section 61 and 62 of the Act (i.e. suspension, revocation or refusal to renew a licence).
10. Applicants for a licence to drive a hackney carriage or private hire vehicle should be aware that the Council is empowered by law to check with the Disclosure Barring Service for the existence and content of any criminal record and other intelligence held in their name. Officers from the licensing section will where appropriate contact other agencies for any other information which they may hold for instance, Housing Service, Children's Services and Greater Manchester Police. Information received from the Disclosure Barring Service or other agency will be kept in strict confidence while the licensing process takes its course and will be retained no longer than is necessary and in any event will be destroyed in accordance with the requirements of the Data Protection Act 1998 and in accordance with good practice after the application is determined or any appeal against such determination is decided.
11. The disclosure of a criminal convictions/fines or cautions or other relevant information relating to an individuals conduct will not necessarily debar an the individual from being granted, retaining or renewing a licence. It will depend on whether or not the individual can satisfy the Council that they are a fit and proper person to hold such a licence.
12. The Council may fail to be satisfied that an individual is a fit and proper person to hold a driver's licence or an operator's licence for any good reason. If adequate evidence that a person is a fit and proper person is not adduced or if there is good reason to question or doubt the evidence provided, then that could amount to good reason to refuse a licence.
13. In considering evidence of an individual's good character and fitness to hold a driver's licence or operators licence, where previous convictions/cautions or other information relating to criminal matters/character is disclosed, the Council will consider the nature of the offence/issue and penalty. When it was committed/took place, the date of conviction/issue and the length of time which has elapsed, the individuals age when the offence was committed/issue took place whether or not it is part of a pattern of criminal behaviour, the intent, the harm which was, or could have been caused and any other factors which might be relevant. Where an individual has been convicted of a criminal offence, the Council cannot review the merits of the conviction [*Nottingham City Council v. Mohammed Farooq (1998)*].
14. The Council has adopted the following guidelines relating to the relevance of convictions to which it refers in determining new/renewal applications for drivers' licences and operators licences and when considering whether to take any action against and existing licence holder.

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15. The guidelines do not deal with every type of offence, and do not prevent the Council from taking into account offences not specifically addressed in the guidelines, or other conduct, which may be relevant to an individual, If an individual has a conviction for an offence not covered by the guidelines regard will be had to the factors at paragraph 10 when deciding whether any action should be taken.

Offences described in the guidelines and similar offences, though differently entitled in any statutory provision, modification or re-enactment, will be taken into account in accordance with the guidelines

16. The guidelines are not an attempt to define what is a “fit and proper person”.

17. Any individual who is refused a driver’s licence or has such a licence suspended or revoked on the ground that the Council is not satisfied he/she is a fit and proper person to hold such a licence has a right of appeal to the Magistrates’ Court within 21 days of the notice of refusal.

18. Any individual who is refused an operators licence has a right of appeal to the Magistrates’ Court within 21 days of the notice of refusal.

19. The guidance will be used for the determination of new applications, the renewal of existing licences and the review of existing licences in relation to hackney carriage drivers, private hire drivers and operator licences.

20. It is common practice for individuals to submit simultaneous applications for Hackney Carriage and Private Hire Driving Licence(s). Licensing Authorities may use the same application form that allows the individual to specify if they are applying both types of driver’s licences or only one type. This provides an efficient service for the customer and saves needless duplication. For dual applications the Licensing Committee/Panel are asked to apply the fit and proper test to each individual application. Similarly where an existing driver who holds both Private Hire and Hackney Carriage Licences is referred to Committee/Panel the fit and proper test will be applied individually to each Licence.

GUIDELINES ON THE RELEVANCE OF PREVIOUS CONVICTIONS and OTHER INFORMATION

General Policy

1. Each case will be decided on its own merits.
2. The Council has a duty to ensure so far as possible that drivers and operators are fit and proper persons to hold licences. One aspect of that is the extent to which previous convictions, including but not limited to convictions for offences against children and young persons, dishonesty, sexual offences, traffic offences, violence and drugs indicate that a person is not a fit and proper person, and would not take advantage of passengers or abuse or assault them.
3. Restorative justice and other criminal disposals are increasingly used by the police as a less formal way of dealing with issues and as an alternative to the criminal

court system. The Council recognises that restorative justice and other out of court disposals tend to be applied in many cases or for first time offenders, nevertheless all such disposals will be taken into account when determining if a person is a fit and proper person.

4. A person with a conviction for a serious offence need not be automatically barred from obtaining a licence, but would normally 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). A person with a conviction for a single serious offence or a number of separate offences is not barred from applying for a private hire or hackney carriage driver licence, but would normally be expected to remain free from conviction for an appropriate period (which will depend on the nature of the offence).
 - c. Simply remaining free of conviction will not generally be regarded as adequate evidence that a person is a fit and proper person to hold a licence.

5. Amongst situations where it may be appropriate to depart from the general policy, for example, may be situations where the offence is an isolated one with mitigating circumstances or where a conviction defaults outside of the policy between the application and determination date. Similarly, multiple offences or a series of offences over a period of time are likely to give greater cause for concern and may demonstrate a pattern of inappropriate behaviour, which will be taken into account. In any case which involves certain specified sexual offences, murder or manslaughter a licence will normally be refused.

6. The Council through the Licensing Committee/ Panel will convene to consider any information/ representations received that a person is not/ no longer a “fit and proper” person or a breach of a condition of a licence has been proved they may refuse, revoke or suspend a licence for any specified period.
 - a. Hearing with notice – Where a committee/panel is to be convened to consider whether or not a person is a “fit and proper” person, notice of the time and date when a committee/ panel will be convened will then be given ahead of the date listed in order to allow the person to seek independent legal advice and to attend and be represented at the hearing.
 - b. Ex-parte hearing – Where a committee/ panel is convened as a result of sensitive information being received by the Council an assessment will be undertaken in balancing a persons right to a fair hearing against whether or not it is in the public interest to hold the hearing ex-parte.
 - c. Where new offences are created or existing offences are consolidated or re-enacted etc they will be treated in a manner appropriate to their severity whether or not this guidance has been updated to reflect the changes.

7. The following examples afford a general guide on the action, which might be taken where convictions are disclosed:

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a. Offence of Dishonesty

Drivers of hackney carriage and private hire vehicles are expected to be persons of trust. It is comparatively easy for a dishonest driver to defraud the public by demanding more than the legal fare and in other ways.

Passengers may include especially vulnerable people and children.

Members of the public entrust themselves to the care of drivers both for their own safety and for fair dealing, passengers may include especially vulnerable people. In certain situations drivers will know that a property is empty whilst the occupants are away on holiday for a set period of time after taking them to the airport or railway station.

The widespread practice of delivering unaccompanied property is indicative of the trust that businesses put into drivers.

For these reasons a serious view is taken of any convictions involving dishonesty. In general an applicant with convictions for dishonesty, which are less than 5 years old, is unlikely to be considered favourably and are to be referred to panel/committee for determination.

In particular, an application will normally be refused where the individual has a conviction for an offence or similar offences or offences which replace the below offences and the conviction is less than 3 years prior to the date of application

- ii. Theft
- iii. Burglary
- iv. Fraud
- v. Benefit fraud (including offences under ss.111A and 112 of the Social Security Administration Act 1992)
- vi. Handling or receiving stolen goods
- vii. Forgery (e.g. producing false insurance policy)
- viii. Conspiracy to defraud
- ix. Obtaining money or property by deception
- x. Other deception
- xi. Blackmail

b. Violence

Members of the public and in particular, the elderly, infirm and children or vulnerable adults entrust their personal safety to private hire and hackney carriage drivers whenever they take a journey.

Passengers often travel alone and are vulnerable to physical attack etc.

Users of private hire and hackney carriage vehicles have a right to expect that drivers are not individuals with a predisposition towards or a propensity for violent behaviour at any level.

1. Offences against Children (under 14 years) and Young Persons (aged 14 to 17 years)

Drivers of hackney carriage and private hire vehicle are often entrusted with the care of children and young persons.

It is comparatively easy for an unscrupulous driver to take advantage of such vulnerable persons.

The Council seeks to minimise risks associated with children and young persons and for that reason a more serious view will be taken where offences of violence involve children or young persons.

Where the commission of an offence involved loss of life a licence will normally be refused. In other cases the matter is to be referred to the Panel for determination where the conviction is less than 10 years prior to the date of application. A conviction less than 5 years old will generally be refused.

2. Offences against Other Persons

As hackney carriage and private hire vehicle drivers maintain close contact with the public, where the commission of an offence involved loss of life a licence will normally be refused.

In other cases where the conviction is less than 10 years prior to the date of the application will be referred to the panel for determination. A conviction less than 3 years old will generally be refused.)

In particular:

- i. An application will normally be refused where the individual has a conviction for an offence or similar offence(s), or similar offence(s) which replace the below offences:
 - Murder
 - Manslaughter
 - Manslaughter or culpable homicide while driving

- ii. An application will also normally be refused where the individual has a conviction for an offence or similar offence(s) 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 or grievous bodily harm (s.20 Offences Against the Person Act 1861) which is racially aggravated (s.29(1)(a) Crime and Disorder Act 1998)
- Actual bodily harm (s.47 Offences Against the Person Act 1861) which is racially aggravated (s.29(1)(b) Crime and Disorder Act 1998)
- Grievous bodily harm with intent (s.18 Offences Against the Person Act)
- Grievous bodily harm with intent (s.20 Offences Against the Person Act)
- Robbery
- Possession of firearm
- Riot
- Assault Police
- Common assault with racially aggravated (s.29(1)(c) Crime and Disorder Act 1998)
- Violent disorder
- Resisting arrest

iii. An application will also normally be refused where the individual has a conviction for an offence or similar offence(s) 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 (s.30 Crime and Disorder Act 1998)
- Racially-aggravated s.4 Public Order Act 1986 offence (fear of provocation of violence) (s.31(1)(a) Crime and Disorder Act 1998)
- Racially-aggravated s.4A Public Order Act 1986 offence (intentional harassment, alarm or distress) (s.31(1)(b) Crime and Disorder Act 1998)
- Racially-aggravated s.2 Protection from Harassment Act 1997 offence (harassment) (s.32(1)(a) Crime and Disorder Act 1998)
- Racially-aggravated s.4 Protection from Harassment Act 1997 offence (putting people in fear of violence) (s.32(1)(b) Crime and Disorder Act 1998)
- Racially-aggravated s.5 Public Order Act 1986 offence (harassment, alarm or distress) (s.31(1)(c) Crime and Disorder Act 1998)

iv. An application will also normally be refused where the individual has a conviction for an offence or similar offence(s) or similar offence(s) which replace the below offences and the conviction is less than 3 years prior to the date of application:

- Common assault
- Assault occasioning actual bodily harm (s.47 Offences Against the Person Act)
- 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)

- Harassment- breach of restraining order- on conviction Protection from Harassment Act 1997 s5(5) = s. 5(6)
- Obstruction
- Possession of offensive weapon
- Criminal damage

c. **Drugs**

After 5 years, consideration will be given to the circumstances of the offence and any evidence demonstrating that the person is now a fit and proper person to hold a licence.

An application will normally be refused where the individual has more than one conviction for offences related to the possession of drugs and the convictions are less than 5 years prior to the date of the application.

An offence related to the supply of drugs and the conviction is less than 10 years prior to the date of application will be referred to the Panel for determination. A conviction less than 5 years old will generally be refused.

An application from an individual who has an isolated conviction for an offence related to the possession of drugs within the last 5 years will be referred to the Panel for determination. A conviction less than 3 years old will generally be refused).

If any applicant was an addict then they will normally be required to show evidence of 5 years free from drug taking after detoxification treatment as required by the Council.

d. **Sexual and Indecency Offences**

Any individual currently on the sex offenders' register would not normally be granted a licence.

1. **Offences against Children (under 14 years) and Young Persons (aged 14 to 17 years)**

Drivers of hackney carriage and private hire vehicle are often entrusted with the care of children and young persons. It is comparatively easy for an unscrupulous driver to take advantage of such vulnerable persons.

Where the commission of a sexual offence involves a child or young person an application for a licence will normally to be refused.

2. **Intelligence and other information which has not resulted in a criminal conviction**

The Council will sometimes be made aware of other intelligence or low level information about an individual which has not resulted in the conviction of that person but is relevant in relation to their character. Officers will give appropriate consideration to this information and will seek to consult with other appropriate agencies in order to ensure that they have a comprehensive understanding. Where appropriate, officers will refer such information/ intelligence to the Allegations Management process. Any additional information gathered through this process may then be taken into account at any subsequent licensing panel.

3. Offences against persons other than children / young persons

As hackney carriage and private hire vehicle drivers often carry unaccompanied passengers, individual with a conviction for rape, indecent assault, or other similar offences or similar offences under the Sexual Offences Act 2003, will normally be refused a licence.

Individuals with a conviction relating to sexual offences such as soliciting, importuning, indecent exposure or other similar offences or similar offences under the Sexual Offences Act 2003, will normally be referred to the Panel for determination where the conviction is less than 10 years prior to the date of the application. Applicants on the sex offenders register or with a conviction less than 5 years old will generally be refused)

After 5 years, consideration will be given to the circumstances of the offence and any evidence demonstrating that the person is now a fit and proper person to hold a licence.

Amongst circumstances, which the Council may wish to consider, are circumstances, which if they occurred at the time of the consideration of the application would not be a criminal offence.

e. Drunkenness

Driving whilst under the influence of drink is unacceptable under any circumstances and puts not only the driver, but passengers and other road users at risk. Such irresponsible behaviour is not conducive with the responsibilities of a private hire or hackney carriage driver.

i. With a motor vehicle (No Disqualification)

A serious view will be taken of convictions of driving or being in charge of a vehicle while under the influence of drink.

An application will normally be refused where the individual has a conviction, which does not result in disqualification, for an offence within 2 years of the date of the application.

More than one conviction for this type of offence, within the last 5 years of the date of conviction is likely to merit refusal.

ii. With a motor vehicle (Disqualification)

Where a disqualification has occurred as a result of a drink-driving offence, at least 5 years free from conviction should normally elapse from the date of the restoration of the DVLA licence before an applicant is considered for a licence.

In addition, individual will normally be required to show a period of at least 5 years has elapsed after completion of detoxification treatment if they were an alcoholic.

iii. Not in a motor vehicle

An isolated conviction for drunkenness need not debar an applicant from gaining a licence. In some cases, a warning may be appropriate.

More than one conviction for drunkenness could indicate a medical problem necessitating critical examination and refusal of a licence.

In addition, individual will generally be required to show a period of at least 5 years has elapsed after completion of detoxification treatment if they were an alcoholic.

**MOTORING CONVICTIONS
MAJOR TRAFFIC OFFENCES**

New applicants and existing licensed drivers with a conviction for a 'Major Traffic Offence' as defined below, which is less than 5 years prior to the date of the application (the present date in relation to existing licensed drivers) will be referred to the Panel for determination. A conviction less than 2 years prior to the date of the application will generally be refused.

Where the conviction resulted in a period of disqualification, an application will normally be refused unless a period of 3 years free from conviction has lapsed from the restoration of the DVLA licence and 5 years where the disqualification relates to driving whilst unfit through drink or drugs.

In addition, applicants will generally be required to show a period of at least 5 years has elapsed after completion of detoxification treatment if they were an alcoholic.

For the purposes of these guidelines the following motoring offences are classed as 'Major Traffic Offences':

AC10	Failing to stop after an accident
AC20	Failing to give particulars or to report an accident within 24 hours
AC30	Undefined accident offences
BA10	Driving while disqualified by order of Court
BA30	Attempting to drive while disqualified by order of Court
CD40	Causing death through careless driving when unfit through drink
CD50	Causing death through careless driving when unfit through drugs
CD60	Causing death through careless driving with alcohol level above the limit
CD70	Causing death through careless driving then failing to supply a specimen for alcohol analysis
CD71	Causing death through careless driving the failing to supply a specimen for drug analysis
DD40	Dangerous driving
DD60	Manslaughter or culpable homicide while driving a vehicle
DD80	Causing death by dangerous driving
DR10	Driving or attempting to drive with alcohol level above limit
DR20	Driving or attempting to drive while unfit through drink

DR30	Driving or attempting to drive then failing to supply a specimen for analysis
DR31	Driving or attempting to drive when unfit through drugs
DR40	In charge of a vehicle while alcohol level above limit
DR50	In charge of a vehicle while unfit through drink
DR60	Failure to provide specimen for analysis in circumstances other than driving / attempting to drive
DR61	Failure to provide specimen for drug analysis in circumstances other than driving / attempting to drive
DR70	Failing to provide specimen for breath test
DR80	Driving or attempting to drive when unfit through drugs
DR90	In charge of a vehicle when unfit through drugs
IN10	Using a vehicle uninsured against third party risks
LC20	Driving otherwise than in accordance with a licence
LC30	Driving after making a false declaration about fitness when applying for a licence
LC40	Driving a vehicle having failed to notify a disability
LC50	Driving after a licence has been revoked or refused on medical grounds
MS50	Motor racing on the highway
MS60	Offences not covered by other codes
MS90	Failure to give information as to identity of driver, etc.
UT50	Aggravated taking of a vehicle

Aiding, Abetting, Counselling or Procuring

Offences as coded above, but with 0 changed to 2 (e.g. IN10 becomes IN12).

Causing or Permitting

Offences as coded above, but with 0 changed to 4 (e.g. IN10 becomes IN14).

Inciting

Offences as coded above, but with 0 changed to 6 (e.g. IN10 becomes IN16).

Or similar offences or offences which replace the above offences.

INTERMEDIATE TRAFFIC OFFENCES

New applicants and existing licensed drivers with a Conviction / Fine / Simple Caution/ Fixed Penalty Points for an offence which falls under the headings of 'Minor' or 'Intermediate' Traffic Offences and where the total number of accumulated points on their drivers licence is less than 12 or does not result in a period of disqualification, can have their applications granted without the application being referred to the Panel. Where an applicant/licensed driver has 12 points but has not been disqualified; or where (s)he has a disqualification for any period, s(he) will be referred to Committee and a licence will not normally be granted unless s(he) has held a DVLA licence for at least 12 months following the expiry of the period of the disqualification.

For the purposes of these guidelines the following motoring offences are classed as 'Intermediate Traffic Offences':

CU10	Using vehicle with defective brakes
CU20	Causing or likely to cause danger by reason of use of unsuitable vehicle or using a vehicle with parts or accessories (excluding brakes, steering or tyres) in a dangerous condition
CU30	Using a vehicle with defective tyres
CU40	Using a vehicle with defective steering
CU50	Causing or likely to cause danger by reason of load or passengers
CU80	Breach of requirements as to control of the vehicle mobile phones etc
CD10	Driving without due care and attention
CD20	Driving without reasonable consideration for other road users
CD30	Driving without due care and attention or without reasonable consideration of other road users
SP10	Exceeding goods vehicle speed limit
SP20	Exceeding speed limit for type of vehicle (excluding goods or passenger vehicles)
SP30	Exceeding statutory speed limit on a public road – not resulting in a fixed penalty
SP40	Exceeding passenger vehicle speed limit
SP50	Exceeding speed limit on a motorway
SP60	Exceeding speed limit offence

Aiding, Abetting, Counselling or Procuring

Offences as coded above, but with 0 changed to 2 (e.g. CU10 becomes CU12).

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Causing or Permitting

Offences as coded above, but with 0 changed to 4 (e.g. CU10 becomes CU14).

Inciting

Offences as coded above, but with 0 changed to 6 (e.g. CU10 becomes CU16).

Or similar offences or offences which replace the above offences.

MINOR TRAFFIC OFFENCES

For the purposes of these guidelines the following motoring offences are classed as 'Minor Traffic Offences':

MS10	Leaving a vehicle in a dangerous position
MS20	Unlawful pillion riding
MS30	Play street offences
MS70	Driving with uncorrected defective eyesight
MS80	Refusing to submit to an eyesight test
MW10	Contravention of Special Road Regulations (excluding speed limits)
PC10	Undefined contravention of Pedestrian Crossing Regulations
PC20	Contravention of Pedestrian Crossing Regulations with moving vehicle
PC30	Contravention of Pedestrian Crossing Regulations with stationary vehicle
SP30	Exceeding statutory speed limit on a public road resulting in a fixed penalty
TS10	Failing to comply with traffic light signals
TS20	Failing to comply with double white lines
TS30	Failing to comply with a "Stop" sign
TS40	Failing to comply with direction of a constable or traffic warden
TS50	Failing to comply with traffic sign (excluding "Stop" sign, traffic lights or double white lines)
TS60	Failing to comply with school crossing patrol sign
TS70	Undefined failure to comply with a traffic direction sign

Aiding, abetting, counselling or procuring

Offences as coded above, but with 0 changed to 2 (e.g. PC10 becomes PC12)

Causing or permitting

Offences as coded above, but with 0 changed to 4 (e.g. PC10 becomes PC14)

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Inciting

Offences as coded above, but with 0 changed to 6 (e.g. PC10 becomes PC16)

Or similar offences or offences which replace the above offences.

Plying for Hire

In the case of a private hire driver found guilty of an offence of plying for hire, the Committee/ Panel would normally order the licence to be revoked or suspended.

Breach of Conditions, Bye-laws and complaints

Any breach of conditions, breach of bye-laws or complaint relating to a licence holders conduct may be referred to the Panel. A licence holder brought before the Panel will be dealt with by no further action, a formal warning, period of suspension or revocation.

Guidance

Licence holders will be brought before Panel in situations where it is clear that the holder's behaviour is not influenced by verbal or written warnings administered by Licensing Officers. Any licence holder who receives a third warning [verbal or written] in respect of a breach or complaint occurring within a 12 month period [calculated by reference to the date of the breach/complaint] will be brought before the Panel.

All complaints are investigated. Some investigations and breaches will result in prosecution and in those cases the prosecution outcome will be the deciding factor in the decision to refer to Panel as will other prosecutions and cautions administered by other enforcing agencies.

Where this authority administers a caution to a licence holder this does not preclude a referral to panel for the matter for which the licence holder has been cautioned.

In other cases an investigation may result in a warning, such warnings will be relevant to the rolling 12 month period.

In certain situations the breach or complaint may be deemed so serious that an immediate referral to Panel is warranted. In those cases the reasoning for the decision for the immediate referral will be recorded within the formal report to Panel.

Reapplication

Individuals are advised that Council guidelines are that where an individual has had an application refused or a licence revoked, the Committee/ Panel would normally refuse any subsequent application made within 12 months of the date of the previous refusal or revocation unless there are substantial material changes in the individual's circumstances.

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SPENT CONVICTIONS

By virtue of the Rehabilitation of Offenders Act 1974 (Exemptions) (Amendment) Order 2002 taxi drivers are an exempted occupation for the purposes of the 1974 Act and convictions are therefore never spent.

The Council will only consider spent convictions if it appears to be relevant for deciding whether the individual is a fit and proper person to hold a licence and that justice cannot be done in the case, except by admitting or requiring evidence relating to that spent conviction. The council will in its consideration the nature of the offence(s), the history or pattern of offending, the lapse of time and whether all the convictions have previously been considered

FORMAL/ SIMPLE CAUTIONS AND ENDORSABLE FIXED PENALTIES

For the purpose of these guidelines formal/simple/conditional cautions and endorsable fixed penalties shall be treated as though they were convictions.

MULTIPLE CONVICTIONS FROM SINGLE INCIDENT

Where an individual has multiple convictions arising from a single incident, the convictions will generally be treated as one conviction for the purposes of these guidelines.

In these circumstances the period for which the individual would normally be expected to show free from conviction will be the longest applicable period calculated by reference to each offence.

OTHER OFFENCES

Offences under the Town Police Clauses Acts and Part II of the Local Government (Miscellaneous Provisions) Act 1976 and Hackney Carriage Byelaws and Section 167 Criminal Justice and Public Order Act 1994.

One of the main purposes of the licensing regime set out in the Town Police Clauses Acts and Part II of the Local Government (Miscellaneous Provisions) Act 1976 ("the Acts") and Hackney Carriage Byelaws, is to ensure the protection of the public.

For this reason a serious view is taken of convictions for offences under the Acts (including illegally plying for hire and/or touting) when deciding whether an individual is to be treated as a fit and proper person to hold a licence.

In particular, an individual will normally be refused a licence if (s)he has been convicted of an offence under the Acts at any time during the 2 years preceding the application or has more than one conviction within the last 5 years preceding the date of the application.

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Contact details:

Licensing Service
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Bury
BL9 0EJ

Telephone Number: 0161 253 5208
Email: licensing@bury.gov.uk

These guidelines to convictions supersede all others and take effect from: 4th
December 2014.

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