

GUIDELINES RELATING TO THE RELEVANCE OF CONVICTIONS WHEN CONSIDERING THE RENEWAL OF LICENCES

GENERAL POLICY

- 1.1 Each case will be decided on its own merits.
- 1.2 Applicants who have minor motoring offences involving 6 points or less and no period of disqualification on their licence within the last three years will be dealt with under delegated authority. All other applications will be referred to the Sub-Committee for consideration.
- 1.3 If, after considering a case, a decision is made not to revoke or suspend a licence or renewal is not refused any further application for renewal of that licence will be approved under delegated authority unless a further relevant conviction or matter needs to be considered. These matters may be taken into consideration.
- 1.4 These guidelines afford a framework on the action which may be taken where convictions are admitted. Some discretion may be appropriate if the offence is isolated or there are mitigating circumstances. However, the overriding consideration must be the protection of the public.
- 1.5 The decision to refuse to renew a licence should not be taken lightly. Any person whose application is not granted has the right to appeal the Magistrates' Court against the decision. The right to drive will remain until the appeal is determined.
- 1.6 The decision of the Sub-Committee or Magistrates' Court should not set a precedent.
- 1.7 In refusing to renew a licence the Sub-Committee will need to indicate what period of time should elapse before they will consider a further application from that person.
- 1.8 In some instances the Sub-Committee will have recommended suspension or revocation of a licence and the matter is the subject of an appeal to the Court. In those circumstances the suspension or revocation will not take effect until the decision is determined. If the licence is due for renewal during that period the Sub-Committee may either wish to consider renewal of the licence but immediately enforce the suspension period if confirmed or refuse to grant the licence until the period of suspension has expired.
- 1.9 When there is evidence of Court proceedings pending these should not normally be considered. However, there may be circumstances

where there is perceived real threat to public protection. In these instances, very careful consideration will have to be given to renewal of the licence e.g. charge of violence/rape etc.

- 1.10 In addition to any convictions any other formal written warnings to the licence holder within the last two years may be taken into account.
- 1.11 If any person fails to apply within the currency of the old licence – whether suspended or otherwise – that licence is deemed to have lapsed. Any further application will then (unless exceptional circumstances apply) be dealt with as a new application rather than a renewal of the licence.
- 1.12 No consideration should be taken of any convictions which are spent under the terms of the Rehabilitation of Offenders Act 1974.
- 1.13 Generally, no consideration will be given to convictions for traffic offences which are greater than three years old.

SPECIFIC OFFENCES

MINOR TRAFFIC OFFENCES

Convictions for minor traffic offences, eg obstruction, waiting in a restricted street, speeding etc., should not normally warrant refusal to renew the licence.

DISQUALIFICATION

If sufficient points have been accrued to require a period of disqualification of the holder's driving licence and revocation has taken place due to the seriousness of the offence, then the licence cannot be renewed and a fresh application must be made and the conditions adopted for applications will apply. If disqualification resulted in suspension only then, on renewal of the licence to drive the hackney carriage or private hire vehicle, a warning should be issued as to future conduct.

MAJOR TRAFFIC OFFENCES

An isolated conviction for reckless driving or driving without due care and attention etc, should normally merit a warning as to future driving and advice on the standard expected of hackney carriage and Private Hire Vehicle drivers. More than one conviction for this type of offence within the last two years should merit refusal and the sub-committee should decide, on the basis of the seriousness of the conviction, what period free from convictions should apply before consideration of a further application.

DRUNKENNESS WITH MOTOR VEHICLE

A serious view should be taken of such convictions. An isolated incident will not debar an applicant but strict warnings should be given as to future

behaviour. More than one conviction for these offences should raise grave doubts as to the applicant's fitness to hold a licence to drive a hackney carriage or private hire vehicle.

At least 3 years should elapse (after the restoration of the driving licence) before any further application is considered.

If the applicant is an alcoholic, a special medical examination should be undertaken before the application is considered. If this is the case, a period of 5 years free of conviction should elapse after treatment after completion of treatment before a further licence application is considered.

DRUNKENNESS NOT IN MOTOR VEHICLE

An isolated conviction for drunkenness need not debar an applicant from renewing the licence. However, a number of such convictions may indicate a medical problem requiring medical examination and advice prior to consideration of the application.

DRUGS

A conviction for a drug related offence will require serious consideration. It still almost certainly have previously involved suspension or revocation of a licence.

An applicant with a conviction for a drug related offence should be required to show a period of at least 3 years free of convictions before a further application is considered. This will however, depend upon the type of conviction, the type and amount of drug involved and whether or not a hackney carriage or private hire vehicle was involved in the offence.

An applicant should show a period of 5 years after detoxification treatment if he/she was an addict.

INDECENCY

Very serious consideration is required where convictions of this nature exist. It will almost certainly have previously involved suspension or revocation of the licence.

Applications with convictions for indecent exposure, indecent assault, and importuning or any of the more serious sexual offences should be refused until they can show a substantial period (of three to five years depending upon the offence) free of such offences. More than one conviction for this kind of offence should preclude consideration for at least five years. In either case if a licence is granted strict warning as to future conduct should be issued.

VIOLENCE

As drivers of hackney carriage and private hire vehicles are in constant and close contact with the public, a firm line is required in dealing with serious convictions for violence such as grievous bodily harm, wounding or assault. In addition, conviction for the carrying of weapons or offensive weapons, especially during the operation of driving a taxi, will need to be considered very seriously.

At least three years free of such convictions should be shown before an application is entertained and even then a strict warning should be administered.

A number of more minor convictions may require different consideration but should be dealt with as a serious matter.

DISHONESTY

Applicants are expected to be persons of trust. Convictions for theft of property or defrauding the travelling public or others in the course of operation of the vehicle will require consideration.

A serious view should be taken of conviction(s) for dishonesty and generally a period of three to five years should be required before considering entertaining an application.

FALSE DECLARATION

Consideration of applications to renew a driver's licence for hackney carriage or private hire vehicles where convictions for false declarations exist or technical breaches have occurred must be dealt with on the basis of the seriousness of the offence.

Such false declarations may also fall into the category of dishonesty and may require similar consideration. Any false declaration made knowingly should result in a decision not to renew.

TAXI RELATED OFFENCES AND BREACHES OF LICENCE CONDITIONS

Drivers are expected to drive in accordance with the statutory provisions under which they are licensed and the additional conditions which the Council may reasonably impose.

Isolated convictions for minor offences or breaches should not result in refusal of an application. A warning letter may be sufficient. However, more than one such conviction or a series of convictions or breaches may require different consideration.

Such convictions or breaches will remain on file for a period of two years and be taken into account for the purposes of consideration of renewals.

GUIDELINES RELATING TO THE RELEVANCE OF CONVICTIONS WHEN CONSIDERING REVOCATION OR SUSPENSION OF LICENCES

GENERAL POLICY

- 1.1 Each case will be decided on its own merits.
- 1.2 Applicants who have convictions for minor motoring offences involving 6 points or less and no period of disqualification on their licence within the last three years will be dealt with under delegated authority. All other applications will be referred to the Sub-Committee for consideration.
- 1.3 If, after considering a case, a decision is made not to revoke or suspend a licence or renewal an application for renewal of that licence will be approved under delegated authority unless a further relevant conviction or matter needs to be considered. Those original matters may only be taken into consideration in the event of further convictions.
- 1.4 These guidelines afford a framework on the action which may be taken where convictions are admitted. Some discretion may be appropriate if the offence is isolated or there are mitigating circumstances. However, the overriding consideration must be the protection of the public.
- 1.5 The decision to revoke or suspend the licence should not be taken lightly. Any person whose application is revoked or suspended has the right to appeal the Magistrates' Court against the decision.
- 1.6 The decision of the Sub-Committee or Magistrates' Court should not set a precedent.
- 1.7 When there is evidence or information received of Court proceedings pending these should not normally be considered. However, there may be circumstances where there is perceived real threat to public protection. In these instances, very careful consideration will have to be given to suspension or revocation of the licence.
- 1.8 In addition to any convictions any other formal written warnings to the licence holder within the last two years will be taken into account.
- 1.9 In instances of revocation of a driver's licence, the Sub-Committee will be required to indicate what period of time shall elapse before a further application is entertained.

- 1.10 No consideration should be taken of any convictions which are spent under the terms of the Rehabilitation of Offenders Act 1974.
- 1.11 Generally, no consideration will be given to convictions for traffic offences which are greater than three years old.

SPECIFIC OFFENCES

MINOR TRAFFIC OFFENCES

Convictions for minor traffic offences, eg obstruction, waiting in a restricted street, speeding etc., should not normally warrant suspension or revocation of the licence on the first occasion.

DISQUALIFICATION

If sufficient points have been accrued to require a period of disqualification of the holder's driving licence then the decision to revoke or suspend must be made on the basis of the seriousness of the offences involved. However, on restoration after suspension a warning should be issued as to further conduct.

MAJOR TRAFFIC OFFENCES

A conviction for reckless driving or driving without due care and attention etc, should generally merit a warning as to future driving. However, the seriousness of the offence may warrant suspension or revocation. Advice will also be given on the standard expected of drivers. More than one conviction for this type of offence within a two year period should generally merit consideration of suspension or possible revocation.

DRUNKENNESS WITH MOTOR VEHICLE

A serious view should be taken of convictions of driving or being in charge of a vehicle whilst under the influence of drink. These will normally end with a period of disqualification and so the question of suspension or revocation of the licence becomes academic. If no such disqualification period follows, for whatever reason, the Sub-Committee may still wish to consider a period of suspension or revocation.

DRUNKENNESS NOT IN MOTOR VEHICLE

An isolated conviction for drunkenness or drink related offences should not automatically result in suspension or revocation of a licence. However, a number of such convictions or convictions for drink related offences could indicate a problem. Evidence of a medical problem relating to drink may require medical advice prior to detailed consideration of the case. In other cases a warning may be sufficient which will be kept on file for eighteen months.

DRUGS

A conviction for a drug related offence will require serious consideration. In some instances, convictions for drugs related offences may result in a period of disqualification from driving. This is particularly the case in driving whilst under the influence of drugs.

The Sub-Committee will wish to consider whether the conviction relates to possession, using or dealing, the type and amount of drug involved and whether the licence holder was using the taxi in connection with any offence.

For licence holders who are convicted of using drugs, whether or not in association with a hackney carriage or private hire vehicle, consideration might be given to the suspension of the licence until medical evidence exists to show that the licence holder is not an addict.

If evidence becomes available that a licence holder is an addict, serious consideration must be given to the revocation of the licence.

INDECENCY

As drivers of hackney carriages and private hire vehicles often carry unaccompanied passengers, a very serious view should be taken of convictions for indecent exposure, indecent assault, importuning or more serious sexual offences even if apparently isolated in nature.

Whilst some offences relating to indecency may be more serious than others, any convictions of this nature involving the use of hackney carriages or a private hire vehicle or during the period the licence holding is acting as a licensed driver should warrant revocation of the licence.

VIOLENCE

In view of the fact that hackney carriage and private hire vehicle drivers are in constant and close contact with the public, a firm line should be taken in dealing with serious convictions for violence such as grievous bodily harm, wounding or assault. Furthermore, convictions for the carrying of weapons or offensive weapons, especially during the operation of driving a taxi, should warrant revocation of the licence.

Convictions relating to any offences involving violence against police officers or authorised officers of the Council in the enforcement of their duties should also warrant revocation of the licence.

DISHONESTY

Licence holders are expected to be persons of trust. Unaccompanied property and persons are delivered by drivers. Convictions for theft of property or defrauding the travelling public in the course of the operation of the vehicle will require detailed examination.

An isolated conviction for a relatively minor offence involving dishonesty may only require a warning as to the future conduct of the licence holder. However, a number of minor convictions may require more stringent action.

FALSE DECLARATION

Licence holders who have been found to have provided false information in their application for a licence fall into a number of categories:-

- a) those where the information is completely false and where the issue of the licence is considered to have been void. For instance, where an applicant provides evidence that he has held a licence for at least twelve months and this is found to be false;
- b) when the licence was issued on the basis of false information. This is particularly true in the case of false medical declarations or false declarations about convictions for various offences;
- c) when omissions are made or false declarations made, which are technical breaches but would not have adversely influenced the issue of the licence.

Each category exhibits different degrees of seriousness and subsequently different attitudes towards revocation or suspension may be appropriate.

However, materially false declarations render the licence void and the question of suspension or revocation does not arise. The Sub-Committee should formally declare the licence void in such cases as (a) above. Case (b) would normally require revocation but case (c) may only warrant consideration of suspension or a formal warning.

TAXI RELATED OFFENCES AND BREACHES OF LICENCE CONDITIONS

Drivers are expected to drive in accordance with the provisions under which they are licensed and the additional conditions which the Council may reasonably impose.

An isolated conviction for minor offences or breaches should not result in the suspension or revocation of a licence. In that case a warning letter may be sufficient. However, more than one conviction to the statutory provisions or the conditions attached may be indicative of a disregard of the obligations to comply with other legal requirements and may raise doubts as to whether the driver should continue to hold a licence.

Very serious consideration should be given to any convictions (other than minor traffic offences) which have involved the use of the hackney carriage or private hire vehicle as an integral part of the offence.

Such convictions or breaches will remain on file for a period of two years and be taken into account for the purpose of consideration of suspensions and revocations.

GUIDELINES RELATING TO THE RELEVANCE OF CONVICTIONS FOR DETERMINING APPLICATIONS.

GENERAL POLICY

1. Each case will be decided on its own merits.
2. A person with a current conviction for serious crime need not be permanently barred from obtaining a licence but should 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 should be the protection of the public.
3. The following examples afford a general guide on the action to be taken where convictions are admitted.

(a) **Minor Traffic Offences**

Convictions for minor traffic offences, eg 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 should be issued as to future conduct.

(b) **Major Traffic Offences**

An isolated conviction for reckless driving or driving without due care and attention etc, should 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 should merit refusal and no further applications should be considered until a period of 1 to 3 years free from convictions has elapsed.

(c) **Drunkenness**

(i) **With Motor Vehicle**

A serious view should be taken of convictions of driving or being in charge of a vehicle while under the influence of drink. An isolated incident should not necessarily debar an applicant but strict warnings should be given as to future behaviour. More than one conviction for these offences should raise grave doubts as to the applicant's fitness to hold a licence. At least 3 years should elapse (after the restoration of the driving licence) before an applicant is considered for a licence. If there is any suggestion that the applicant is an alcoholic, a special medical examination should be arranged before the applicant is entertained. If the applicant is found to be an alcoholic a period of 5 years should

elapse after treatment is complete before a further licence application is considered.

(ii) Not in Motor Vehicle

An isolated conviction for drunkenness need not debar an applicant from gaining a licence. However, a number of convictions for drunkenness could indicate a medical problem necessitating critical examination (see (i) above). In some cases, a warning may be sufficient.

(d) **Drugs**

An applicant with a conviction for a drug related offence should be required to show a period of at least 3 years free of convictions before an application is entertained, or 5 years after detoxification treatment if he/she was an addict.

DISHONESTY

Applicants are expected to be persons of trust. Unaccompanied property and persons, are delivered by drivers. A serious view should be taken of convictions involving dishonesty. In general, a period of three to five years free of any convictions should be required before entertaining an application.

INDECENCY

As drivers of hackney carriage and private hire vehicles often carry unaccompanied passengers applicants with convictions for indecent exposure, indecent assault, and importuning or more serious sexual offences should be refused until they can show a substantial period of at least three to five years free of such offences. More than one conviction for this kind of offence should preclude consideration for at least five years. In either case if a licence is granted strict warning as to future conduct should be issued.

VIOLENCE

As drivers of hackney carriage and private hire vehicles are in constant and close contact with the public, a firm line is required in dealing with serious convictions for violence such as grievous bodily harm, wounding or assault. In addition, conviction for the carrying of weapons or offensive weapons will need serious consideration.

At least three years free of such convictions should be shown before an application is entertained and even then a strict warning should be administered.

A number of more minor convictions may require different consideration but should be dealt with as a serious matter.