

GUIDANCE ON CRIMINAL CONVICTIONS AND MOTORING OFFENCES IN TAXI AND PRIVATE HIRE VEHICLE LICENSING

*Unless indicated the timescales suggested within this template are intended as **guidelines only** and are not statutory*

1. Introduction

- 1.1 The purpose of this document is to provide guidance on the criteria taken into account by the council when determining whether or not an applicant or an existing licence holder is a fit and proper person to hold a hackney carriage and/or private hire driver or 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 a fit and proper person
 - 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 document is provided as guidance to any person with an interest in taxi and private hire licensing. In particular, but not exclusively to:
- Applicants for drivers' licences
 - Existing licensed drivers whose licences are being renewed
 - Licensing officers
 - Members of the Licensing committee/Subcommittee (or other relevant decision making body)
 - Magistrates hearing appeals against local authority decisions.
- 1.4 Where licensing officers have delegated powers to grant licences, they will utilise these guidelines when making a decision to grant a licence. In other cases decisions will be referred to the licensing Subcommittee. Whilst officers and the Subcommittee will have regard to the guidance contained in the document, **each case will be considered on its individual merits and, where the circumstances demand, the committee/officer may depart from the guidance.**

2. General

- 2.1 There may be occasions where it is appropriate to depart from the guidance, for example where an offence is a one-off occasion or there are mitigating circumstances or alternatively where there are many or continuous offences which may show a pattern of offending and unfitness.
- 2.2 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). 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.

Where an applicant has been convicted of a criminal offence, the licensing authority cannot review the merits of the conviction (Nottingham City Council v. Mohammed Farooq (1998))

3. Appeals

Any applicant refused a driver's licence on the grounds that the licensing authority is not satisfied that he 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 (Local Government Miscellaneous Provisions Act 1976, s 77 (1)).

4. Powers

- 4.1 Section 61 and Section 62 of the Local Government Miscellaneous Provisions Act 1976 allow the licensing authority to suspend, revoke or refuse to renew a licence if the application/licence holder has been convicted of an offence involving dishonesty, indecency, violence; failure to comply with the provisions of the Town and 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.
- 4.2 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 driver's licence, whether spent or not. Therefore the licensing authority will have regard to all relevant convictions, particularly where there is a long history of offending or a recent pattern of repeat offending.
- 4.3 In this guidance 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.

5. Consideration of disclosed criminal history

- 5.1 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 driver's licence and/or private hire vehicle operator's licence is a 'fit and proper' person to hold such a licence. However, if an applicant has any convictions, warnings or cautions or charges awaiting trial, the licensing authority will look into:
 - 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 the offending
- Any other character check considered reasonable (e.g. personal references)
- Any other factors that might be relevant.

5.2 Existing holders of drivers' licences are required to notify the licensing authority in writing within 72 hours of receiving a driving licence endorsement, fixed penalty notice or criminal conviction (including cautions).

5.3 Applicants can discuss further what effect a caution/conviction may have on any application by contacting the licensing officer in confidence for advice.

5.4 The licensing authority requires enhanced disclosures from the Disclosure and Barring Service (DBS) by any applicant for a driver licence. From 01/12/12 DBS was formed merging the Criminal Records Bureau (CRB), which previously did this work, and the Independent Safeguarding Authority. The licensing authority follows the DBS's Code of Practice on the fair use of the disclosure information. A copy is available on request.

5.5 Applicants applying for the grant or a renewal of a driver's licence will be required to obtain an enhanced disclosure at their own expense. The licensing authority abides by the DBS policy on secure storage, handling, use, retention and disposal of disclosure information, which is available on request.

5.6 More information about the DBS can be found on the home office website at: www.homeoffice.gov.uk/agencies-public-bodies/dbs

5.7 The licensing authority is also entitled to use other records and information which may be available to it in determining applications or an entitlement to continue holding a licence. This may include information held by other licensing authorities, and information disclosed by the police under the Home Office scheme for reporting offences committed by notifiable occupations.

5.8 It is an offence for any person knowingly or recklessly to make false declaration or to omit any material particularly 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.

6 Serious offences involving violence

6.1 Licensed drivers have regular contact with the public. A firm line is to be taken with those who have convictions for offences involving violence. An application will normally be refused if the applicant has a conviction for an offence that involved the loss of life.

6.2 In other cases anyone of a violent disposition will normally be refused to be licensed until at least 3 years free of such a conviction. However, given the

range of the offences that involve violence, consideration must be given to the nature of the conviction.

6.3 Unless there are exceptional circumstances a licence will not normally be granted where the applicant has a conviction for an offence such as :

- Murder
- Manslaughter
- Manslaughter or culpable homicide while driving
- Terrorism offences
- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above.

6.4 A licence will not normally be granted where the applicant has a conviction for an offence below and the conviction is less than 10 years prior to the date of application:

- Arson
- Malicious wounding or grievous bodily harm which is racially aggravated
- Actual bodily harm which is racially aggravated
- Grievous bodily harm with intent
- Robbery
- Possession of firearm
- Riot
- Assault Police
- Common assault racially/religiously aggravated
- Violent disorder
- Resisting arrest or
- any similar offences (including attempted or conspiracy to commit) offences which replace the above.

6.5 A licence will not normally be granted where the applicant has a conviction for an offence below and the conviction is less than 5 years prior to the date of application:

- Racially-aggravated criminal damage
- Racially-aggravated offence, or
- any similar (including attempted or conspiracy to commit) offences which replace the above.

6.6 A licence will not normally be granted where the applicant has a conviction for an offence below and the conviction is less than 3 years prior to the date of application:

- Common assault
- Assault occasioning actual bodily harm
- Affray
- S5 Public Order Act 1986 offence (harassment, alarm or distress)
- S4 Public Order act 1986 offence (fear of provocation of violence)
- S4A Public Order Act 1986 offence (intentional harassment, alarm or distress)

- Obstruction
- Criminal damage or
- any similar offences (including attempted or conspiracy to commit) offences which replace the above.

6.7 A licence will not normally be granted if an applicant has more than one conviction in the last 10 years for an offence of a violent nature.

6.8 In the event of a licence being granted, a strict warning both verbally and in writing should be administered.

7. Possession of a weapon

7.1 If an applicant has been convicted of possession of a weapon or any other weapon related offence, this will give serious concern as to whether the person is fit to carry the public.

7.2 Depending on the circumstances of the offence, an applicant should be free of conviction for 3 years (or at least 3 years must have passed since the completion of the sentence, whichever is longer), before a licence is granted.

8. Sex and indecency offences

8.1 As licensed driver often carry unaccompanied and vulnerable passengers, applicants with convictions for sexual offences must be closely scrutinised. Those with convictions for the more serious sexual offences will generally be refused. For other offences, applicants will be expected to show a substantial period (normally at least 5 years) free of conviction for such offences before a licence is granted.

8.2 (a) Unless there are exceptional circumstances, an application will normally be refused where the applicant has a conviction for an offence such as:

- Rape
- Assault by penetration
- Offences involving children or vulnerable adults
- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above.

8.3 (b) Before an application is allowed, an applicant should be free of conviction for at least 10 years (or at least 3 years must have passed since the completion of the sentence, whichever is longer), if he/she has a conviction for an offence such as :

- Sexual assault
- Indecent assault
- Possession of indecent photographs, child pornography etc.
- Exploitation of prostitution
- Trafficking for sexual exploitation or
- any similar offences (including attempted or conspiracy to commit) offences which replace the above.

8.4 (c) Before a licence is granted, an applicant should be free of conviction for a at least 3 years (or at least 3 years must have passed since the completion of the sentence, whichever is longer), if he/she has a conviction for an offence such as:

- Indecent exposure
- Soliciting (kerb crawling) or
- any similar offences (including attempted or conspiracy to commit) offences which replace the above.

8.5 In addition to the above the licensing authority will not normally grant a licence to any applicant who is currently on the Sex Offenders Register.

8.6 A licence will not normally be granted if an applicant has more than one conviction for a sex or indecency offence.

9. Dishonesty

9.1 A Licensed PHV or taxi driver is expected to be a trustworthy person. They deal with cash transactions and valuable property may be left in their vehicles. Taxi drivers are required to deposit such property with police within 24 hours. PHV drivers must pass lost property to the operator. The widespread practice of delivering unaccompanied property is indicative of the trust that business people place in licensed drivers. Moreover, it is comparatively easy for a dishonest driver to defraud the public by demanding more than the legal or agreed fare, etc. overseas visitors can be confused by our currency and may be vulnerable to an unscrupulous driver. For all these reasons, a serious view is taken of any conviction involving dishonesty.

9.2 In general, a minimum period of 3 years free of conviction or at least 3 years from completion of sentence (whichever is the longer) should be required before granting a licence. Offences involving dishonesty include:

- Theft
- Burglary
- Fraud
- Benefit fraud
- Handling or receiving stolen goods
- Forgery
- Conspiracy to defraud
- Obtaining money or property by deception
- Other deception
- Taking a vehicle without consent or
- any similar offences (including attempted or conspiracy to commit) offences which replace the above.

10. Drugs

10.1 A serious view is taken of any drug related offences. The nature and quantity of the drugs, whether for personal use or supply are issues which should be considered.

- 10.2 A licence will not normally be granted where the applicant has a conviction for an offence related to the supply of drugs and has not been free of conviction for 5 years.
- 10.3 A licence will not normally be granted where the applicant has more than one conviction for the offence related to the possession of drugs and has not been free of conviction for 5 years.
- 10.4 An application from an applicant who has an isolated conviction for an offence related to the possession of drugs within the last 3-5 years may be granted a licence, but consideration should be given to the nature and quantity of the drugs.
- 10.5 If there is evidence of persistent drug use or dependency a specialist medical examination (in accordance with DVLA Group 2 medical standards) may be required before a licence is granted. If the applicant was an addict then they would normally be required to show evidence of 5 years free from drug taking after detoxification treatment.

11. Driving offences involving loss of life

- 11.1 A very serious view is to be taken of any applicant who has been convicted of a driving offence that resulted in loss of life.

A licence will not normally be granted unless the applicant is free of conviction for 7 years or (or at least 3 years must have passed since the completion of the sentence, whichever is longer) if he has a conviction for:

- Causing death by dangerous driving
- Causing death by careless driving whilst under the influence of drink or drugs or
- any similar offences (including attempted or conspiracy to commit) offence which replace the above

- 11.2 Before a licence is granted, an applicant should be free of conviction for 3 years (or at least 3 years must have passed since the completion of the sentence whichever is longer), if he has a conviction for:

- Causing death by careless driving
- Causing death by careless driving: unlicensed, disqualified or uninsured drivers.

12 Drink driving/driving under the influences of drugs

- 12.1 As licensees are professional vocational drivers, a serious view is taken of convictions for driving, or being in charge of a vehicle while under the influence of drink or drugs. An isolated incident would not necessarily debar an applicant from proceeding on the restoration of his DVLA driving licence but he should be warned as to the significant risk to his licence status in the event of re-offending. More than one conviction for these offences raises significant doubts as to the applicants fitness to drive the public. At least 3 years, after the restoration for the driving licence following a drink drive conviction should elapse before an application will be considered. If there is any suggestion that the applicant is alcohol or drug dependent, a satisfactory special medical report must be provided before the application can be allowed to proceed.

13 Outstanding charges or summonses

- 13.1 If the individual is the subject of an outstanding charge or summons their application can continue to be processed, but the application will need to be reviewed at the conclusion of proceedings. Where information is received through the Notifiable Occupations Scheme on existing licence holders, consideration will be made at Subcommittee.
- 13.2 If the outstanding charge or summons involves a serious offence and the individual's conviction history indicates a possible pattern of unlawful behaviour or character trait, then in the interests of public safety the application may be put on hold until proceedings are concluded or the licence may be refused.
- 13.3 A suspension or revocation of the licence of a driver takes effect at the end of the period of 21 days beginning with the day on which notice is given to the driver. If it appears that the interests of the public safety require the suspension or revocation of the licence to have immediate effect, and the notice given to the driver includes a statement that is so and an explanation why, the suspension or revocation takes effect when the notice is given to the driver. (Road Safety Act 2006, 2 52, 2A&2B)

14 Non-conviction information

- 14.1 If an applicant has, on more than one occasion, been arrested or charged, but not convicted, for a serious offence which suggests he could be a danger to the public, consideration should be given to refusing the application. Such offences would include serious violent offences and serious sex offences.
- 14.2 In assessing the action to take, the safety of the travelling public must be the paramount concern.

15 Cautions

- 15.1 Admission of guilt is required before a caution can be issued. Every case will be considered on its own merits including the details and nature of the offence.

16 Licensing offences

- 16.1 Certain offences under taxi legislation such as plying for hire, overcharging and refusing to carry disabled persons would normally prevent a licence being granted or renewed until a period of 3 years has passed since.

17 Insurance offences

- 17.1 A serious view will be taken of convictions of driving or being in charge of a vehicle without insurance. An isolated incident in the past will not necessarily stop a licence being granted provided he/she 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 would normally prevent a licence being granted or renewed.

- 17.2 At least three years should elapse (after the restoration of the DVLA driving licence), before a licence would normally be granted for a hackney carriage or private hire drivers licence. An operator found guilty or aiding and abetting the driving of passengers for hire and reward whilst without insurance will have his operators' licence revoked immediately and prevented from holding a licence for three years.

18 Overseas residents

- 18.1 If a private hire operator applicant has spent six continuous months or more overseas the licensing authority will expect to see evidence of a criminal record check from the country/countries covering the period.

19 Licences issued by other licensing authorities

- 19.1 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.

20. Other Motoring Offences.

- 20.1 There are many motoring offences which attract penalty points and fines. Some of these are not necessarily a bar from an applicant being granted a licence or an existing driver retaining a licence.
- 20.2 However, there are circumstances when it may be appropriate to refer an application or licence for determination or review at a Sub-committee hearing. This will generally apply where there is evidence of a total of 9 or more points on the DVLA record.
- 20.3 For totting up purposes, courts consider that points will be valid for three years from conviction even though these may appear on the driving licence for four years. This principle is used by officers when considering applications.

21. Summary

- 21.1 To summarise, a criminal history in itself may not automatically result in refusal and a current conviction for a serious crime need not bar an applicant permanently from becoming licensed. As the preceding paragraphs indicate, in most cases, an applicant would be expected to remain free from conviction for from 3 years to 10 years, according to circumstances, before an application can be considered. However, there may be occasions when an application can be allowed before 3 years free from conviction have elapsed.
- 21.2 Any person who has committed an offence and has to wait before an application is positively considered is more likely to value their licence and act accordingly.

21.3 While it is possible that an applicant may have a number of convictions that, individually, meet the above guidelines, the overall offending history must be considered when assessing an applicant's suitability to be licensed. A series of offences over a period of time is more likely to give cause for concern than an isolated minor conviction. Clearly some discretion can be afforded if an offence disclosed is isolated and there are mitigating circumstances, but the overriding consideration is the protection of the public.

Annex A- Motoring offences and penalty points

The following is a guide to the number of penalty points a court may impose. It does not reflect the fact that some offences may incur a disqualification. These codes are recorded from information supplied by the courts (accurate at the time of this document).

Code	Offence	Penalty Point
Accident Offences		
AC10	Failing to stop after an accident	5-10
AC20	Failing to give particulars or to report an accident within 24 hours	5-10
AC30	Undefined accident offences	4-9
Disqualified Driver		
BA10	Driving whilst disqualified by a court order	6
BA30	Attempting to drive while disqualified by order of court	6
Careless Driving		
CD10	Driving without due care and attention	3-9
CD20	Driving without reasonable consideration for other road users	3-9
CD30	Driving without due care and attention or without reasonable consideration for other road users	3-9
CD40	Causing death through careless driving when unfit through alcohol	3-11
CD50	Causing death by careless driving when unfit through drugs	3-11
CD60	Causing death by careless driving with alcohol level above the limit	3-11
CD70	Causing death by careless driving then failing to supply a specimen for analysis	3-11
CD71	Causing death by careless driving then failing to supply a specimen for drug analysis	3-11
CD80	Causing death by careless, or inconsiderate driving	3-11

CD90	Causing death by driving: unlicensed, disqualified or uninsured drivers	3-11
Construction & Use of Offences		
CU10	Using a vehicle with defective brakes	3
CU20	Causing or likely to cause danger by reason of use of unsuitable vehicles or using a vehicle with parts or accessories (excluding brakes, steering or tyres) in a dangerous condition	3
CU30	Using a vehicle with defective tyre(s)	3
CU40	Using a vehicle with defective steering	3
CU50	Causing or likely to cause danger by reason of load or passengers.	3
CU80	Using a mobile phone while driving a vehicle	3
Dangerous Driving		
DD40	Dangerous driving	3-11
DD60	Manslaughter or culpable homicide while driving a vehicle	3-11
DD90	Furious driving	3-9
Drink or Drugs		
DR10	Driving or attempting to drive with alcohol level above limit	3-11
DR20	Driving or attempting to drive while unfit through drink	3-11
DR30	Driving or attempting to drive then failing to supply a specimen for analysis	3-11
DR40	In charge of a vehicle while alcohol level above limit	10
DR50	In charge of vehicle while unfit through drink	10
DR60	Failure to provide a specimen for analysis in circumstances other than driving or attempting to drive	10
DR61	Failure to supply a specimen for drug analysis in circumstances other than driving or attempting to drive	10
DR70	Failing to provide specimen for breath test	4
DR80	Driving or attempting to drive when unfit through drugs	3-11
DR90	In charge of a vehicle when unfit through drugs	3-11
Insurance Offences		
IN10	Using a vehicle uninsured against third party risks	6-8
Licence Offences		
LC20	Driving otherwise than in accordance with the licence	3-6
LC30	Driving after making a false declaration about fitness applying for a licence	3-6
LC40	Driving a vehicle having failed to notify a disability	3-6
LC50	Driving after a licence has been revoked or refused on medical grounds	3-6
Miscellaneous Offences		
MS10	Leaving a vehicle in a dangerous position	3
MS20	Unlawful pillion riding	3
MS30	Play street offences	2
MS50	Motor racing on highway	3-11

MS60	Offences not covered by other codes	As appropriate
MS70	Driving with uncorrected defective eyesight	3
MS80	Refusing to submit to an eyesight test	3
MS90	Failure to give information as to identity of driver etc	3
Motorway Offences		
MW10	Contraventions of Special Roads Regulations (excluding speed limits)	3
Pedestrian crossings		
PC10	Undefined Contravention of Pedestrian Crossing Regulation	3
PC20	Contravention of Pedestrian crossing Regulations with moving vehicle	3
PC30	Contravention of Pedestrian Crossing Regulations with stationary vehicle	3
Speed Limits		
SP10	Exceeding goods vehicle speed limits	3-6
SP20	Exceeding speed limit for type of vehicle (excluding goods or passenger vehicles)	3-6
SP30	Exceeding statutory speed limit on a public road	3-6
SP40	Exceeding passenger vehicle speed limit	3-6
SP50	Exceeding speed limit on motorway	3-6
Traffic Directions and Signs		
TS10	Failing to comply with traffic light signals	3
TS20	Failing to comply with double white lines	3
TS30	Failing to comply with 'Stop' sign	3
TS40	Failing to comply with direction of a constable/warden	3
TS50	Failing to comply with a traffic sign (excluding stop signs, traffic signs or double white lines)	3
TS60	Failing to comply with a school crossing patrol sign	3
TS70	Undefined failure to comply with a traffic direction sign	3
Special Code		
TT99	To signify a disqualification under totting-up procedure. If total of penalty points reaches 12 or more within 3 years, the driver is liable to be disqualified.	
Theft or unauthorised Taking		
UT50	Aggravated taking of a vehicle	3-11

Aiding, abetting, counselling or procuring

Offences as coded but with 0 changed to 2 e.g LC10 becomes LC12

Causing or permitting

Offences as coded, but with 0 changed to 4 e.g. LC10 becomes LC14

Inciting

Offences as coded, but with the end 0 changed to 6 e.g. DD40 becomes DD46

Non-endorsable offences

Some offences are non-endorsable. A non-endorsable offence is an offence which courts do not endorse onto paper counterpart. No penalty points are attributed to these offences but they carry a period of disqualification.

At the end of the disqualification (over 56 days) the driver will have to apply for a renewal licence together with the appropriate fee. Any queries about offences and endorsements should be directed to the convicting court.

Period of time

Periods of time are signified as follows: D=days, M=months, Y=years.

Endorsements remain on a counterpart licence for the following periods of time:

Endorsements must remain on a licence for 11 years from the date of conviction if the offence is:

- Drinking/drugs and driving (shown on licence as DR10, DR20, DR30 (?) and DR80).
- Causing death by careless driving whilst under the influence of drink/drugs (shown on licence as CD40, CD50 and CD 60).
- Causing death by careless driving, then failing to provide a specimen for analysis (shown on the licence as CD70).

Or 4 years from the date of conviction if the offence is as listed below:

- Reckless/dangerous driving (shown on licence as DD40, DD60 and DD80)
- Offences resulting in disqualification.
- Disqualification from holding a full licence until driving test has been passed.

Or 4 years from the date of offences in all other cases.

Source www.direct.gov.uk