

## **GUIDELINES TO THE TAXI COMMITTEE IN RESPECT OF NEW LICENCE APPLICATIONS AND EXISTING DRIVERS/OPERATORS WHO HAVE COMMITTED OFFENCES DURING THE CURRENCY OF THEIR LICENCES**

1. **It is important to emphasise that these are general guidelines only. Each case must be considered on its own merits.** The indicated sanction is a **starting point** only and may be reduced in cases where there is considerable mitigation, or increased in cases where there are aggravating features.

Any reference to convictions also applies to cautions since an offender must have admitted the offence in question in order to receive a caution.

2. A person with a current conviction for a serious criminal offence need not be permanently barred from obtaining a licence but should be expected to remain free of conviction for 5 years, subject to the circumstances of each individual case, 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. **Spent Convictions**

All applicants for a private hire and hackney drivers licence are required to declare any convictions that have been recorded against them including any spent convictions.

This is by virtue of the Rehabilitation of Offenders Act 1974 (Exemptions) Order 1975, Schedule 1, part 3.

The disclosure of a criminal record or other information does not debar an applicant from the grant of a licence unless it is considered that the conviction(s) renders the applicant "not a fit and proper person" to hold a licence. In making the decision the Committee will take into account the nature of the offence(s), how long ago, what the age of the applicant was when the offence(s) were committed and any other factors that may be relevant. In particular, spent convictions will become relevant where they show a course of conduct on behalf of the applicant. For example, a number of convictions for violence, even where spent may indicate a propensity for violence and consequent risks to passengers as opposed to an isolated offence committed a number of years ago. The advice of the Legal Adviser is essential to ensure that the Committee attaches appropriate weight to convictions when determining applications.

4. Categories of Offences:

- (a) ***Minor Traffic Offences***

Convictions for minor traffic offences, eg obstruction, waiting in a restricted street, low level speeding etc, should not prevent a person from applying for a licence.

There is delegated authority for officers to determine an application for the grant of a private hire and hackney carriage drivers licence, if the applicant has up to six penalty points on his DVLA Licence.

However, if those six points are for one offence or if the points for one offence are over three points, the matter is referred to the Taxis Committee for determination.

If 12 penalty points have been accrued to require a period of disqualification of the applicant's driving licence then it is our policy that a hackney carriage or Private Hire Drivers licence may be considered after the applicant has had his DVLA licence restored for the same amount of time as the disqualification period.

#### Starting Point

<u>Existing Licence Holder</u>	<u>Grant of a new Licence</u>
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Strong warning	Strong warning
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(b) **Major Traffic Offences**

Any conviction for this type of offence within the last two years should merit refusal in the case of a new application and no further application should be considered until a period of 1 to 3 years free from convictions has elapsed depending on the seriousness of the offence(s). However, if it can be established that this is an isolated offence and the applicant has otherwise held a clean licence for a considerable period, then the Committee may consider a time limited grant.

Examples include:-

AC1 O	Failing to stop after an accident
AC20	Failing to give particulars or to report an accident within 24 hours.
AC30	Undefined accident offence/Driving without due care and attention.
IN10	Driving without insurance.

Starting Point:

Existing Licence Holder

Grant of a new Licence

Suspension two months

Refusal - may stipulate time to re-apply (unless deemed isolated offence)

Examples, continued:-

BA10 Driving whilst disqualified

BA30 Attempting to drive whilst disqualified by Court

DD40 Dangerous driving

DD60 Manslaughter

DD80 Causing death by dangerous driving

Starting Point:

Existing Licence

Grant of Licence

Revocation

Refusal

(c) **Alcohol related offences**

A serious view should be taken of convictions for driving or being in charge of a vehicle while under the influence of alcohol.

Examples:-

DR10 Driving or attempting to drive with alcohol concentration above limit

DR20 Driving or attempting to drive when unfit through drink

DR30 Driving or attempting to drive, then refusing to provide a specimen for analysis

DR40 In charge of a vehicle with alcohol concentration above limit

DR50 In charge of a vehicle when unfit through drink

DR60 Failure to provide a specimen for analysis in circumstances other than driving or attempting to drive

DR70 Failing to provide a specimen for breath test.

A person who has been disqualified from driving as a result of a drink driving offence must show at least three years free from convictions after the restoration of their driving licence before their application will be considered.

More than one current conviction of this type will require a period of at least *five* years free from convictions before the application would be considered.

*NB: drink driving offences remain on a driving licence for a period of ten years and a second conviction within that period will result in a minimum disqualification of three years.*

Such an applicant would also be required to pass a medical examination and if the applicant was found to be an alcoholic a further period of *five* years should elapse after treatment is complete before an application is considered.

Starting Point

Existing Licence Holder

Grant of Licence

Revocation (consideration to further application as above)

Refusal (note comments above)

(d) **Drug Offences**

A serious *view* should also be taken of offences involving misuse of drugs.

Examples:-

DR80 Driving or attempting to *drive* when unfit through drugs

DR90 In charge of vehicle when unfit through drugs

*NB: variety of criminal offences covering possession and supply of Class A/BIG drugs, all of which are imprisonable offences.*

Starting Point

New Applicant

An applicant with a conviction for a drug related driving offence should be required to show a period of three years free of convictions before an application is considered, or five years if there is more than one current conviction or after detoxification treatment if the applicant is an addict.

An applicant with more than one current conviction would be required to pass a medical examination and if the applicant was found to be drug dependant, a further period of five years should elapse after treatment is complete before an application is considered.

#### Existing Licence Holder

Revocation - (consideration to further application as above).

In cases of possession – revocation.

In cases of supply - revocation.

#### (e) **Indecency Offences**

Given that drivers of private hire/hackney carriage vehicles will be in a position to convey lone females and children, some of whom will have special needs, any offences of a sexual nature are to be treated extremely seriously.

#### Starting Point

#### New Applicant

Applicants with convictions for indecent exposure, indecent assault, importuning or any sexual offence, should be refused a licence. In exceptional circumstances, an application may be considered when the applicant can show a substantial period (of at least 7 years) free of such convictions from either the date of conviction or 7 years from completion of any custodial sentence imposed, whichever is the later. However, grave care should be taken given the potential risks that the public may be exposed to, given the serious nature of such offending.

#### Existing Licence Holder

Revocation

*(NB: major aggravating feature if offence was committed on a passenger)*

#### (f) **Violence**

## Starting Point

### New Applicant

Applicants with convictions for violence should be refused a licence.

Examples-

- Possession of offensive weapon
- common assault
- actual bodily harm (S.47)
- wounding (S.20);
- grievous bodily harm with intent (S.18)

An application **may** be granted if the applicant can show at least 3 years free of such convictions from either the date of conviction or 3 years from completion of any custodial sentence imposed, whichever is the later. This will, however, depend on the seriousness of the original offence. In cases of more than one current conviction, a period of at least five years should elapse before an application can be considered.

### Existing Licence Holder

Revocation (consideration of further application as above)

*(NB: major aggravating feature if offence was committed on a passenger)*

### (g) **Dishonesty**

## Starting Point

### New Applicant

Applicants with convictions for an offence involving dishonesty will normally be refused a licence.

Examples:-

- theft
- obtaining a pecuniary advantage by deception;
- fraud

An application will be considered where the applicant can show at least 3 years free of such convictions from either the date of conviction or 3 years from completion of any custodial sentence

imposed, whichever is the later. In cases of more than one current conviction, a period of at least five years should elapse before an application can be considered.

#### Existing Licence Holder

Revocation (consideration of further application as above).

#### (h) **Public Order Offences**

Examples-

- riot(S.1)
- violent disorder (S.2)
- affray (S.3)
- intentional harassment, alarm or distress (S.4A)
- harassment, alarm or distress (S.5)

*(NB: all the above are punishable with imprisonment other than Section 5, which is fine only)*

#### Starting Point

#### New Applicant

Applicants with a conviction involving a public order offence should be refused a licence. An application will be considered where the applicant can show at least 2 years free of such convictions from either the date of conviction or 2 years from completion of any custodial sentence imposed, whichever is the later.

#### Existing Licence Holder

Suspension - two months (in respect of less serious public order offences).

#### (i) **Offences Specific to Private Hire/Hackney Carriage Trade**

##### (1) Plying for Hire

(Private Hire driver picking up a passenger without a prior booking).

- The starting point for a first conviction for plying for hire is 4 months suspension.

- The starting point for a second conviction for plying for hire would be revocation where the time between the first and second conviction for plying for hire is less than 10 years.
- The starting point for a second conviction for plying for hire would be 6 months suspension where the time between the first and second conviction for plying for hire is more than 10 years.
- The starting point for a third conviction for plying for hire within 30 years is revocation.

(2) Non-use of Taxi Meter

(Hackney Carriage driver failing to use meter).

- The starting point for a first conviction for non-use of a taxi meter is 2 months suspension.
- The starting point for a second conviction for non-use of a taxi meter would be revocation where the time between the first and second conviction for non-use of a taxi meter is less than 10 years.
- The starting point for a second conviction for non-use of a taxi meter would be 6 months suspension where the time between the first and second conviction for non-use of a taxi meter is more than 10 years.
- The starting point for a third conviction for non-use of a taxi meter within 30 years is revocation.

*(NB: if a driver appears before the Committee for either of the above offences and has both a hackney carriage and private hire licence, both licences should be treated equally for the purposes of suspension/revocation).*

- (3) Non-disclosure of convictions by applicant/existing licence holder - requirement of application and condition of licence.

Starting Point

Grant of a New Licence

Existing Licence Holder

Refusal

Suspension for two months

*(NB: any invitation to reapply subject to mitigating circumstances and nature of offence(s)).*

(4) Failure to Wear Badge

(Both Private Hire and Hackney Carriage)

Starting Point

Suspension for one month

(5) Breach of Condition of Licence

Examples:

- failure to report conviction
- no roof sign/plate
- breach of spare wheel policy

Starting Point

No roof sign/plate  
Suspension one month

Spare Wheel Policy  
Suspension three months

(6) Failure to Keep Records

(Private Hire Operators)

Starting Point

Suspension of operators licence for two months

Local Government (Miscellaneous) Provisions Act 1976 Section 61 (2A) and (2B) suspension and revocation of a drivers' licences

Under the above section the Committee is required to consider whether the interests of public safety demand that the suspension or revocation of a private hire/hackney carriage driver's licence should have immediate effect regardless of whether there is a subsequent appeal to the Magistrates' Court against this decision.

The Committee will consider whether to exercise this power in each individual case taking into account all factors, both aggravating and mitigating, in reaching a decision.

The Committee's starting point is that where a decision is made to suspend or revoke a licence the issue of public safety will have been compromised.

Starting Point

Suspension or revocation of a private hire/hackney carriage driver's licence will take immediate effect unless the Committee determine that public safety will not be compromised by the driver continuing to drive during an appeal that is made to the Magistrates' Court.

(7) Misuse of a Mobile Telephone

(Using a Mobile Telephone whilst Private Hire/Hackney Carriage vehicle in motion)

Starting Point

Suspension for one month

(8) Smoking in a Hackney Carriage/Private Hire

Vehicle Under Section 7 of the Health Act  
(Smoking in a smoke free place)

Fixed penalty notice (Not a criminal conviction or caution)

Starting Point

Strong Warning

A second penalty notice - Suspension for one month