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Gwasanaeth Democraidd
Democratic Service
Swyddfa'r Cyngor
CAERNARFON
Gwynedd
LL55 1SH

Cyfarfod / Meeting

PWYLLGOR TRWYDDEDU CYFFREDINOL
GENERAL LICENSING COMMITTEE

Dyddiad ac Amser / Date and Time

10:00am DYDD LLUN, 10 MAWRTH 2014

10:00am MONDAY, 10 MARCH 2014

Lleoliad / Location

SIAMBR HYWEL DDA,
SWYDDFEYDD Y CYNGOR / COUNCIL OFFICES
CAERNARFON

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PWYLLGOR TRWYDDEDU CYFFREDINOL

GENERAL LICENSING COMMITTEE

Aelodaeth/Membership (15)

Plaid Cymru (7)

Y Cynghorwyr/Councillors

Eddie Dogan Huw Edwards

Annwen Hughes Chris Hughes

W. Tudor Owen Ann Williams

Gethin G. Williams

Annibynnol/Independent (4)

Y Cynghorwyr/Councillors

Eryl Jones-Williams Christopher O'Neal

Angela Russell Elfed Williams

Llais Gwynedd (4)

Y Cynghorwyr/Councillors

Louise Hughes Llywarch Bowen Jones

Dilwyn Lloyd Peter Read

Aelod Ex-officio/Ex-officio Member

Is-Gadeirydd y Cyngor/Vice-Chairman of the Council

AGENDA

1. WELOCME AND APOLOGIES

To receive any apologies for absence

2. DECLARATION OF PERSONAL CONNECTION

To receive any declaration of personal interest.

3. URGENT ITEMS

To note any items that are a matter of urgency in the view of the Chairman for consideration.

4. MINUTES

The Chairman shall propose that the minutes of the meeting of this Committee, held on 16 September 2013, be signed as a true record.

(copy herewith – **white** enclosure)

5. GENERAL LICENSING SUB-COMMITTEE MINUTES

To submit, for information, minutes of the General Licensing Sub-committee meetings held on the following dates –

- a) 16.09.2013
- b) 28.10.2013
- c) 29.01.2014

(copy herewith – **blue** enclosure)

6. UPDATING THE RELEVANT CONVICTIONS POLICY IN RESPECT OF THE LICENSING OF TAXI DRIVERS

To submit the report of the Head of Regulatory Department

(copy herewith – **pink** paper)

GENERAL LICENSING COMMITTEE, 16.09.13

Present: Councillor W. Tudor Owen (Chairman)
Councillor Eryl Jones-Williams (Vice-chairman)

Councillors: Eddie Dogan, Huw Edwards, Annwen Hughes, Christopher O'Neal, Peter Read, Angela Russell, Ann Williams, Elfed W. Williams

Also Present: Aled Davies (Head of Regulatory Department), John Reynolds (Senior Public Protection Manager), Siôn Huws (Language and Compliance Manager), Gwenan M. Williams (Licensing Manager) and Lowri Haf Evans (Member Support and Scrutiny Officer).

Councillor W. Tudor Owen welcomed everyone to the Committee.

1. **APOLOGIES:** Councillor Gruffydd Williams

2. **DECLARATION OF PERSONAL INTEREST**

No declarations of personal interest were received from any members present.

3. **URGENT BUSINESS**

No item to consider.

4. **MINUTES**

The Chairman signed the minutes of the previous meeting of this committee held on 24 June 2013 as a true record.

5. **MINUTES OF THE GENERAL LICENSING SUB-COMMITTEE**

Submitted - for information, the minutes of a meeting of the General Licensing Sub-committee held on 22 July 2013.
Officers were thanked for their support at the Sub-committees.

RESOLVED TO ACCEPT THE INFORMATION.

6. **PROPOSED HACKNEY CARRIAGE, PRIVATE HIRE AND OPERATORS LICENCE FEES**

Submitted - the report of the Head of Regulatory Department.

A report had been submitted to this Committee on 24 June 2013 with a recommendation to approve the proposal of the Head of Regulatory

Department to increase all taxi licensing fees by 25%, and proceed towards reclaiming the costs associated with the service in full in 2014/15. The Council was required to review its fees in relation to hackney and private hire vehicle licences on a regular basis.

Sections 53 and 70 of the Local Government (Miscellaneous Provisions) Act 1976 allowed increasing fees on a level that was sufficient to reclaim the reasonable costs associated with processing applications for driver and hackney and private hire licences as well as operators' licences.

The fees charged had to be reasonable and it was the Council's decision whether or not the fees were set at a level which would allow for the reclamation of costs in full or in part. Historically, fees had been set at a low level in Gwynedd in comparison to other local authorities.

Costs not recovered through licence fees placed a burden on the service's resources, and ultimately, on the Council's taxpayers. A detailed cost analysis of income against expenditure on this function had revealed a significant budgetary deficit which could not be sustained any longer in the current financial climate. The fees would have to be raised by at least 37% in order to fully recover the costs.

Maintaining balanced expenditure against income was a challenge faced by all types of businesses, including the Council. For years, the Council had been subsidising the actual cost of taxi licensing from general revenue streams. With the cuts facing the Council at present, the situation could not be sustained without reducing the resources available to provide other services for residents. Subsidising licensing costs would not guarantee any benefit in the form of a price cut for Gwynedd residents as the industry was not duty bound to introduce any savings to its customers.

The recommendation to increase the fees had to be subject to a consultation with the industry as well as a statutory public consultation.

The Committee resolved to accept the recommendation of the Head of Regulatory Department to increase all licensing fees by 25% this year and to proceed to reclaim the costs in full in 2014/15 subject to a statutory consultation and assessing the costs of providing the service annually.

Section 70 of the Local Government (Miscellaneous Provisions) Act 1976 stated that a public notice of the proposed fee changes must appear in the local press.

The notice had been placed in the local press on 17 July in accordance with the statutory requirements as well as on the Council's website. The consultation had remained open for 28 days.

In addition to the statutory consultation, a letter was sent to all taxi vehicle owners in Gwynedd (**380 letters**) explaining in full the reason for the need to increase the fees. The industry was reminded in this letter that there was an opportunity to submit formal observations during the consultation period.

The consultation ended on 15 August and **six letters had been received** from individuals in the taxi industry objecting to the increase in the cost of taxi licences. One of the letters had been sent on behalf of the Dwyfor Taxi Association and had been signed by 18 individuals.

No increase in fees would come into force until the letters of objection received had been considered by this Committee and until a final decision was made on the fee level.

The increase in the fees was objected to in the context of the substantial increase seen over the past few years in fuel and insurance costs.

Concern was expressed that the additional costs were going to be a threat to the livelihood of some operators, owners and drivers, as the increased costs affected the ability of companies to maintain the current level of service.

Some respondents were of the opinion that a reduced increase should be introduced for those with private hire licences that were restricted to school contracts work only.

Concerns were expressed that the customer would refuse the unavoidable increase in taxi hire costs following an increase in licence fees.

In addition, the Dwyfor Taxi Association had expressed its discontent in relation to the level of service available from the Pwllheli Office, as the officer was only in the office on Wednesdays. It was also of the opinion that an insufficient number of checks and inspections of vehicles and driver badges were carried out during the day and night, and that lack of action was taken regarding complaints. It had to be noted that acting on these suggestions was likely to lead to a further increase in licence costs, if the Council was to reclaim the costs of providing the service in full.

The Committee was requested to consider the objections received; as well as the evidence submitted previously to the Committee regarding the need to reclaim the costs of the service.

It was recommended that the General Licensing Committee increased all taxi licensing fees by 25% in accordance with what had been agreed by this Committee in June 2013 and consulted upon in order to proceed to reclaim the costs associated with the service in full in 2014/15.

The recommendation was accepted.

In response to a question regarding maintaining a value for money service in Dwyfor, the Licensing Manager accepted the observation that there was a need to operate more effectively and consider suggestions to improve the provision. Although the licensing officer was only available in the office on Wednesday, it was possible to contact the officers through the Galw Gwynedd contact centre. In terms of responding to complaints, it was emphasised that evidence was required if action was to be taken against breaches of the law.

It was acknowledged that increasing the fees gradually would have been beneficial in the past; however, it was noted that the proposed fees remained at a low level in comparison to other local authorities.

Reference was also made to the very small percentage of individuals / companies that had responded to the consultation, drawing attention to the fact that no complaint had been received from Meirionnydd. It was asked whether or not this was because of the cuts made to public transport services in Meirionnydd. It was appropriate to note the response of the Head of Regulatory Department – transport companies were responsible for the changes to the commercial elements and that the Council had no control over this.

The request made for resources to sustain a more effective service was accepted; however, there would be a need to increase the costs if this was implemented.

RESOLVED TO INCREASE ALL TAXI LICENSING FEES BY 25% IN ACCORDANCE WITH WHAT THE COMMITTEE AGREED AT ITS MEETING IN JUNE 2013 AND CONSULTED UPON IN ORDER TO PROCEED TO RECLAIM THE COSTS ASSOCIATED WITH THE SERVICE IN FULL IN 2014/15.

Everyone was thanked for their contribution.

The meeting commenced at 10.30am and concluded at 11.15am.

GENERAL LICENSING SUB-COMMITTEE, 16.09.13

Present: Councillor W. Tudor Owen
Councillors Angela Russell, Elfed Williams

Also Present: Siôn Huws (Compliance and Language Manager), Gwenan Williams (Licensing Manager) and Lowri Haf Evans (Member Support and Scrutiny Officer).

1. DECLARATION OF PERSONAL INTEREST

No declarations of personal interest were received from any members present.

2. EXCLUSION OF PRESS AND PUBLIC

RESOLVED to exclude the press and public from the meeting during the discussion on the following items because of the likely disclosure of exempt information as defined in paragraphs 12 and 13, Part 4, Schedule 12A of the Local Government Act 1972. These paragraphs apply because the individuals in question are entitled to privacy and there is no overriding public interest that requires the disclosure of personal information relating to those individuals, nor their identities. Consequently, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

3. AN APPLICATION FROM MR A FOR A HACKNEY/PRIVATE HIRE DRIVER'S LICENCE

The Licensing Manager submitted the written report on the application received from Mr A for a hackney/private hire driver's licence. She explained that a statement of convictions referred to relevant offences and, in such cases, officers did not have the right to consider the application. Therefore, this case was submitted for the sub-committee's consideration.

In considering the application, the following procedure was followed –

1. Members of the sub-committee were given an opportunity to ask questions of the Council's representative.
2. The applicant and / or his representative were invited to ask questions of the Council's representative.
3. The applicant and / or his representative were invited to expand on the application.
4. Members of the sub-committee were given the opportunity to ask questions of the applicant and / or his representative.
5. The Council's representative was invited to ask questions of the applicant and / or his representative.
6. The Council's representative and the applicant and / or his representative were given the opportunity to summarise their case.

The applicant expressed that he regretted offending and that he intended to start his own business to support his young family. A reference letter from Cllr Liz Saville was submitted, expressing support to the applicant's licence application.

The relevant parties withdrew from the meeting whilst the Sub-committee members discussed the application.

The Sub-committee took into account the Council's guidelines on convictions which provided as follows –

- *“A firm line will be taken with applicants with convictions for grievous bodily harm, wounding, assault or any other type of offence of a violent nature.*
- *An applicant must be free of convictions for at least three years before an application is considered.*
- *In all cases, if a licence is granted, a strict warning will be given as to the standards expected of licensed drivers.”*

The offence disclosed had happened more than three years ago and therefore, according to the guidelines, the application was one that could be considered. The Sub-committee felt that the applicant had acknowledged the seriousness of the offence and that he had shown remorse. Consequently, after careful consideration of the evidence and for the above reasons, the Sub-committee decided that the applicant was a suitable person to hold a driver's licence, and the application was approved. However, it was agreed to draw the attention of the applicant to the standard of conduct expected from him as a driver and for him to accept it as a strict warning regarding his behaviour in future.

RESOLVED to approve Mr A's application for a hackney/private hire driver's licence.

The Compliance and Language Manager reported that he would aim to send a letter within five working days, informing the applicant of the Sub-committee's decision, and informing him of the right to appeal against the decision within 21 days of receiving that letter.

4. AN APPLICATION FROM MR. B FOR A HACKNEY/PRIVATE HIRE DRIVER'S LICENCE

The Licensing Manager submitted the written report on the application received from Mr. B for a hackney/private hire driver's licence. She explained that a statement of convictions referred to relevant offences and, in such cases, officers did not have the right to consider the application. Therefore, this case was submitted for the sub-committee's consideration.

In considering the application, the following procedure was followed –

1. Members of the sub-committee were given an opportunity to ask questions of the Council's representative.
2. The applicant and / or his representative were invited to ask questions of the Council's representative.
3. The applicant and / or his representative were invited to expand on the application.
4. Members of the sub-committee were given the opportunity to ask questions of the applicant and / or his representative.
5. The Council's representative was invited to ask questions of the applicant and / or his representative.
6. The Council's representative and the applicant and / or his representative were given the opportunity to summarise their case.

The applicant expressed that he regretted offending. It was noted that the applicant had attended a domestic abuse course. A reference letter from the applicant's former employer was submitted, in support of his application. It was highlighted that the applicant had experience and a background of working in the field of public transport.

The relevant parties withdrew from the meeting whilst the Sub-committee members discussed the application.

The Sub-committee took into account the Council's guidelines on convictions which provided as follows –

- *“A firm line will be taken with applicants with convictions for grievous bodily harm, wounding, assault or any other type of offence of a violent nature.*
- *An applicant must be free of convictions for at least three years before an application is considered.*
- *In all cases, if a licence is granted, a strict warning will be given as to the standards expected of licensed drivers.”*

The offence disclosed had happened more than three years ago and therefore, according to the guidelines, the application was one that could be considered. The Sub-committee felt that the applicant had acknowledged the seriousness of the offence and that he had shown remorse. Consequently, after careful consideration of the evidence and for the above reasons, the Sub-committee decided that the applicant was a suitable person to hold a driver's licence, and the application was approved. However, it was agreed to draw the attention of the applicant to the standard of conduct expected from him as a hackney / private hire driver and for him to accept it as a strict warning regarding his behaviour in future.

RESOLVED to approve Mr B's application for a hackney/private hire driver's licence. Mr B was requested to present a letter from his probation officer or a certificate confirming that he had attended the domestic abuse course.

The Compliance and Language Manager reported that he would aim to send a letter within five working days, informing the applicant of the Sub-committee's decision, and informing him of the right to appeal against the decision within 21 days of receiving that letter.

The meeting commenced at 2.00pm and concluded at 3.00pm.

GENERAL LICENSING SUB-COMMITTEE, 28.10.13

Present: Councillor W. Tudor Owen
Councillors Angela Russell, Annwen Hughes

Also Present: Geraint Brython Edwards (Solicitor), Gwenan Williams (Licensing Manager) and Lowri Haf Evans (Member Support and Scrutiny Officer).

1. DECLARATION OF PERSONAL INTEREST

No declarations of personal interest were received from any members present.

2. EXCLUSION OF PRESS AND PUBLIC

RESOLVED to exclude the press and public from the meeting during the discussion on the following items because of the likely disclosure of exempt information as defined in paragraphs 12 and 13, Part 4, Schedule 12A of the Local Government Act 1972. These paragraphs apply because the individuals in question are entitled to privacy and there is no overriding public interest that requires the disclosure of personal information relating to those individuals, nor their identities. Consequently, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

3. AN APPLICATION FROM MR. A FOR A HACKNEY/PRIVATE HIRE DRIVER'S LICENCE

The Licensing Manager submitted the written report on the application received from Mr A for a hackney/private hire driver's licence. It was explained that a statement of convictions referred to relevant crimes and, in such cases, officers did not have the right to consider the application. Therefore, this case was submitted for the sub-committee's consideration.

In considering the application, the following procedure was followed –

1. Members of the sub-committee were given an opportunity to ask questions of the Council's representative.
2. The applicant and / or his representative were invited to ask questions of the Council's representative.
3. The applicant and / or his representative were invited to expand on the application.
4. Members of the sub-committee were given the opportunity to ask questions of the applicant and / or his representative.
5. The Council's representative was invited to ask questions of the applicant and / or his representative.
6. The Council's representative and the applicant and / or his representative were given the opportunity to summarise their case.

The applicant expressed that he regretted offending and that he intended to start his own business to support his young family.

The relevant parties withdrew from the meeting whilst the Sub-committee members discussed the application.

The Sub-committee took into account the Council's guidelines on convictions which stated as follows –

- *“A firm line will be taken with applicants with convictions for grievous bodily harm, wounding, assault or any other type of offence of a violent nature.*
- *An applicant must be free of convictions for at least three years before an application is considered.*
- *In all cases, if a licence is granted, a strict warning will be given as to the standards expected of licensed drivers.”*

The Sub-committee felt that the applicant had acknowledged the seriousness of the offence and that he had shown remorse. It was highlighted that some of the convictions were within the period of 3 – 5 years but that he was issued with a warning not a conviction regarding the offence in 2010. Having considered the evidence in detail, the Sub-committee decided that the applicant was a suitable person to be granted a driving licence and the application was approved. However, it was agreed to draw the attention of the applicant to the standard of conduct expected from him as a driver and for him to accept it as a strict warning regarding his behaviour in future.

RESOLVED to approve Mr A's application for a hackney/private hire driver's licence.

The Solicitor reported that he would aim to send out a letter within five working days notifying the applicant of the Sub-committee's resolution.

4. AN APPLICATION FROM MR. B FOR A HACKNEY/PRIVATE HIRE DRIVER'S LICENCE

The Licensing Manager submitted the written report on the application received from Mr. B for a hackney/private hire driver's licence. It was explained that a statement of convictions referred to relevant crimes and, in such cases, officers did not have the right to consider the application. Therefore, this case was submitted for the sub-committee's consideration.

In considering the application, the following procedure was followed –

1. Members of the sub-committee were given an opportunity to ask questions of the Council's representative.
2. The applicant and / or his representative were invited to ask questions of the Council's representative.
3. The applicant and / or his representative were invited to expand on the application.
4. Members of the sub-committee were given the opportunity to ask questions of the applicant and / or his representative.
5. The Council's representative was invited to ask questions of the applicant and / or his representative.
6. The Council's representative and the applicant and / or his representative were given the opportunity to summarise their case.

The applicant expressed that she regretted offending. She noted that she had retired from a responsible post and that she had taken the blame on behalf of a member of her family. Her intention is to support her son with this taxi company.

The relevant parties withdrew from the meeting whilst the Sub-committee members discussed the application.

The Sub-committee took into account the Council's guidelines on convictions which stated as follows –

- *“A firm line will be taken with applicants with convictions for grievous bodily harm, wounding, assault or any other type of offence of a violent nature.*
- *An applicant must be free of convictions for at least three years before an application is considered.*
- *In all cases, if a licence is granted, a strict warning will be given as to the standards expected of licensed drivers.”*

The Sub-committee felt that the applicant had acknowledged the seriousness of the offence and that he had shown remorse. It was highlighted that some of the convictions were within the period of 3 – 5 years. It was commented that the above were guidelines and not statements to be enforced. After detailed consideration of the evidence, the Sub-committee decided that the applicant was a suitable person to be granted a licence and the application was approved. However, it was agreed to draw the attention of the applicant to the standard of conduct expected from her as a driver and for him to accept it as a strict warning regarding his behaviour in future.

RESOLVED to approve Mr B's application for a hackney / private hire driver's licence.

The Solicitor reported that he would aim to send out a letter within five working days notifying the applicant of the Sub-committee's resolution.

The meeting commenced at 10.00am and concluded at 11.00am

GENERAL LICENSING SUB-COMMITTEE, 29.01.14

Present: Councillor Eryl Jones-Williams, Councillors Angela Russell, Louise Hughes

Also Present: Geraint Brython Edwards (Solicitor), Gwenan Williams (Licensing Manager) and Lowri Haf Evans (Member Support and Scrutiny Officer).

1. DECLARATION OF PERSONAL INTEREST

No declarations of personal interest were received from any members present.

2. EXCLUSION OF PRESS AND PUBLIC

RESOLVED to exclude the press and public from the meeting during the discussion on the following items because of the likely disclosure of exempt information as defined in paragraphs 12 and 13, Part 4, Schedule 12A of the Local Government Act 1972. These paragraphs apply because the individuals in question are entitled to privacy and there is no overriding public interest that requires the disclosure of personal information relating to those individuals, nor their identities. Consequently, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

3. AN APPLICATION FROM MR. A FOR A HACKNEY/PRIVATE HIRE DRIVER'S LICENCE

The Licensing Manager submitted the written report on the application received from Mr A for a hackney/private hire driver's licence. It was explained that a statement of convictions referred to relevant crimes. It was highlighted that the applicant could not attend the meeting and that the implications of not attending had been clearly explained to him. It was also noted that the Licensing Unit had received a letter supporting the applicant.

The Committee decided to consider the application in Mr A's absence. Disappointment was expressed that the applicant was not present to support his application.

Members of the Sub-committee discussed the application.

The Sub-committee took into account the Council's guidelines on convictions that were relevant to the application namely:

- *'A serious view will be taken of any convictions involving dishonesty.*
- *Generally, a period of at least three to five years free from conviction should be required before an application is considered.'*

Having considered the evidence in detail, the Sub-committee decided to refuse the application. Some of the convictions continued to be unspent and therefore it was premature to approve an application for a licence.

RESOLVED to refuse Mr A's application for a hackney/private hire driver's licence.

The Solicitor reported that he would aim to send out a letter notifying the applicant of the Sub-committee's decision.

The meeting commenced at 12.30pm and concluded at 12.55pm

COMMITTEE :	GENERAL LICENSING COMMITTEE
DATE:	10 MARCH 2014
TITLE:	UPDATING THE RELEVANT CONVICTIONS POLICY IN RESPECT OF THE LICENSING OF TAXI DRIVERS
PURPOSE:	FOR DECISION
AUTHOR:	HEAD OF REGULATORY SERVICES

INTRODUCTION

- 1.1 You will be aware that as an Authority we have adopted guidance on relevant convictions as a part of the Taxi Policy , some time ago (see annex 1).These guidelines have been used by officers, and by you as members to assist us in the determination of applications for driver licences from individuals who have relevant convictions on their DBS reports. Over the last few months we as Local Authorities in Wales have been reviewing our guidelines in respect of relevant convictions; and have decided through the All Wales Licensing Technical Panel to recommend an updated guidance which is relevant to current situations arising in taxi licensing. (see annex 2)
- 1.2 The purpose of this policy 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 / operator licence. Adopting this updated guidance would ensure consistency of approach with other Authorities.
- 1.3 The aim of this policy 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;
 - The safeguarding of vulnerable persons;
 - That the public have confidence in their use of licensed vehicles.
- 1.4 This policy aims to provide guidance to any person with an interest in public and private hire licensing. In particular, but not exclusively:
- Applicants for driver / operator licences
 - Existing licensed drivers / operators whose licences are being reviewed
 - Licensing Officers and Police

- Members of the Licensing Committee/ Panel
- Magistrates and Crown Court hearing appeals against local
- authority decisions

1.5 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 sub - committee/panel . Whilst officers and the sub - committee will have regard for 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.

1.6 Where applicants fail to disclose any previous convictions; cautions; warnings; penalty notices, orders or reprimands on their application form including any pending court proceedings or other matters they may be referred to the Licensing Sub - Committee for determination.

RECOMMENDATION

That the Committee accept the updated relevant conviction guidance; which will be adopted by this committee when the whole Taxi Licensing Policy is reviewed in due course.

GUIDANCE ON LICENSING PROCEDURES

RELEVANCE OF CONVICTIONS:

Each case will be dealt with on its own merits.

A person with a conviction or convictions need not be permanently barred from obtaining a licence, but should be expected to be free from conviction for 3 to 5 years, according to the circumstances, before a licence is considered. Whilst the Council may exercise its discretion, the overriding consideration should be the protection of the public and someone who has committed an offence and has to wait a year or two before being accepted as a driver is more likely to value the licence and act accordingly.

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The following examples afford a **general guide** to action to be taken where convictions or police cautions are revealed.

Where, in these Guidelines, an 'application' is mentioned, this also refers to 're-application' upon revocation of a current licence or renewal of licence.

Traffic Offences

- Convictions for minor traffic offences, such as obstruction, contravention of waiting regulations etc should not prevent a person from making application.
- If an applicant has previously accrued sufficient penalty points to require a period of disqualification, and has not been required to undergo a further driving test, then a licence may be granted after its restoration, with a strict warning as to the high standards that are required of licensed drivers.
- If an applicant has a driving licence revoked following six or more penalty points accrued during the first two years since passing their driving test, then a period of 12 months free from further conviction **after** passing a further driving test should have elapsed before an application is considered.

- If an applicant has been ordered to retake a driving test after a period of disqualification for another offence which attract penalty points, then 6 months free from conviction, **after** passing the driving test, should have elapsed before an application is considered.

TRAFFIC OFFENCES INVOLVING DISQUALIFICATION

- An isolated conviction for driving without due care and attention should not prevent a person from making an application.
- If an applicant has been convicted of an offence of dangerous driving, or other offence involving obligatory disqualification, and ordered to take an extended driving test at the end of that period of disqualification, a period of at least 12 months free from conviction, **after** passing the driving test, should have elapsed before an application is considered.

DRIVING WITHOUT INSURANCE OR DRIVING WHILST DISQUALIFIED

- As licensed drivers are responsible for the safety of members of the public who are travelling in their vehicles, a serious view will always be taken of convictions for driving without insurance or driving whilst disqualified.
- An applicant will have to show a period of at least 6 months free from conviction of these types of offence before an applicant is considered.
- If an applicant has been disqualified from driving as a result of convictions of this type, then the 6 month period shall run from the date of restoration of the licence.
- If an applicant has more than 1 conviction of this type within the last 3 years, then a period of 12 months, from the restoration of the licence, must have elapsed before an application is considered.

PLYING FOR HIRE

- This is regarded as a serious offence as the vehicle insurance may be invalidated if the driver is found guilty In a Magistrate Court of plying for hire in a vehicle other than a hackney carriage in a controlled district.
- A period of at least 6 months free from conviction should elapse before an application is considered.
- If a licence is granted, a strict warning will be given as to the conduct expected of licensed drivers.

FAILURE TO WEAR IDENTIFICATION BADGE

- A serious view will be taken of persons convicted by a Magistrate Court of failing to wear the identification badge whilst acting as a licensed driver.
- An isolated conviction will not prevent an application being considered. However, if granted a strict warning will be given as to the conduct expected of a licensed driver.
- If an applicant has been convicted of this offence more than once, by a Magistrate Court, then a period of three months free of conviction shall have elapsed before an application is considered.

DRUNKENNESS AND OTHER RELATED OFFENCES

i) WITH A MOTOR VEHICLE

- A serious view will always be taken of convictions of driving or being in charge of any vehicle whilst under the influence of drink or drugs or failing to give a specimen for analysis.
- If an applicant has been disqualified and ordered to take either an extended driving test or driving test, then a period of at least 12 months free of convictions, **after** passing the necessary test, should have elapsed before an application is considered.
- If the offence arose as a result of the person being in charge of, or driving a licensed vehicle and ordered to take a further test, then a period of 2 years free from conviction after passing the necessary test should have elapsed before an application is considered.
- If no driving test has been ordered, then a period of 12 months free of conviction after the restoration of the licence should have elapsed before an application is considered.
- If an applicant has more than one conviction of this type then grave doubt should arise as to the applicant's suitability to hold a licence.
- At least 3 years must elapse after restoration of the driving licence and passing any further test before an application is considered.
- If there is **any** suggestion that the applicant is an alcoholic or illegal drug user, a special medical examination should be arranged by a medical practitioner nominated by the Council.
- This examination must be certified as satisfactory before an application is considered.
- If it is ascertained that the applicant is an alcoholic or illegal drug user then no application will be considered until at least 5 years have

elapsed after any treatment has been completed.

ii) NOT IN A MOTOR VEHICLE

- An isolated conviction for a drink related offence should not debar an applicant from obtaining a licence.
- A number of convictions for this type of offence may indicate a medical problem necessitating further examination as mentioned above.
- In some cases a warning will be given as to the standards expected of licensed drivers.

iii) DRUGS

- An applicant with a conviction for a drug related offence should be required to show a period of at least 3 years free from conviction before an application is considered, or at least 5 years after detoxification treatment if the applicant was an addict.

INDECENCY OFFENCES

- Applicants with conviction for indecent exposure, indecent assault, importuning, or of any offence of a sexual nature should be refused a licence until a period of 3-5 years free from conviction has elapsed.
- If the applicant was required to register on the National Sex Offenders Register as a result of an offence. Then no application should be considered whilst the applicant remains on the Register.
-
- An applicant with more than one conviction for this type of offence should not be considered suitable to license until at least 5 years has elapsed following the most recent conviction.
- If a conviction of this type arose as a result of the person acting as a licensed driver then no application should be considered for at least 5 years after conviction or, if longer, the conclusion of the sentence imposed.
- In all cases, if a licence is granted, then it will be for a period of 6 months only, after which the person must undergo another criminal record check.
- If no further conviction has been obtained within the 6 month period of licence, no further application will be considered until a period of at least 5 years free of conviction has elapsed.

VIOLENCE

- A firm line will be taken with applicants with convictions for grievous bodily harm, wounding, assault or any other type of offence of a violent nature.
- An applicant must be free of conviction for at least 3 years before an application is considered.
- In all cases, if a licence is granted, a strict warning will be given as to the standards expected of licensed drivers.

DISHONESTY

- A serious view will be taken of any convictions involving dishonesty.
- In general a period of 3-5 years free from conviction should be required before an application is considered.

POLICE CAUTIONS

- A Police caution is considered and administered where a person comes to the notice of the Police for the first time, and admits the offence.
- A Police caution is considered similar to a conviction, as, if the person is convicted at court of a similar offence within 5 years of the caution being administered. Then the caution can be brought to the attention of the court and any sentence passed would be regarded as being a second conviction and therefore sentence may be imposed.
- In general, an application showing a caution may be considered and approved but the overriding consideration should be the protection of the public

OTHER OFFENCES

- Where a Binding Order or Restraint Order has been imposed by a court, no application will be considered whilst that order is still current.
- A period of at least 6 months free of conviction must have elapsed, after expiry of the order, before an application is considered.
- The overriding consideration should be the protection of the public.



DPPW – LICENSING TECHNICAL PANEL

Taxi and Private Hire Licensing Policy Fitness Criteria for Drivers and Operators

DATE: SEPTEMBER 2013

Document Control

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1.0 Introduction

- 1.1 The purpose of this policy 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 / operator licence.
- 1.2 The aim of this policy 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;
 - The safeguarding of vulnerable persons;
 - That the public have confidence in their use of licensed vehicles.
- 1.3 This policy aims to provide guidance to any person with an interest in public and private hire licensing. In particular, but not exclusively:
- Applicants for driver / operator licences
 - Existing licensed drivers / operators whose licences are being reviewed
 - Licensing Officers and Police
 - Members of the Licensing Committee/ Panel (or other relevant decision making body)
 - Magistrates and Crown Court 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 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.
- 1.5 Where applicants fail to disclose any previous convictions; cautions; warnings; penalty notices, orders or reprimands on their application form including any pending court proceedings or other matters they may be referred to the Licensing Committee for determination.

2.0 General policy

- 2.1 Each case will be decided on its own merits.
- 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 (as set out below); and
 - b. Show 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).
- 2.3 For the purposes of this Policy, “other matters to be considered” may include but are not limited to the following:
- a) Criminal / motoring convictions;
 - b) Court Martial;
 - c) Cautions;
 - d) Fixed penalty notices or other penalty notices;
 - e) Anti-social behaviour orders or other similar orders;
 - f) Breach of licensing conditions;
 - g) Formal Warnings or Reprimands;
 - h) Charges or matters awaiting trial;
 - i) Fitness and propriety.
- 2.4 Where an applicant has a conviction(s) or other matter(s) to be considered for a criminal offence, the council cannot review the merits of the conviction or other matter.
- 2.5 Where an applicant / licence holder has a conviction or other matter to be considered for an offence of aiding, abetting, attempting, conspiring, counselling, procuring, causing, permitting or inciting any of the criminal or motoring convictions / matters specified in this guidance, they will be considered relevant for the substantive matter.

3.0 Appeals

- 3.1 Any applicant who has been refused a driver / operator licence, or a licensed driver / operator whose licence has been suspended or revoked has a right to appeal to the Magistrates’ Court within 21 days of receipt of the notice.

4.0 Powers

- 4.1 Powers to grant driver / operator licences are contained within Section 51, Section 55 and Section 59 of the Local Government (Miscellaneous Provisions) Act 1976 (the Act).
- 4.2 Powers to suspend, revoke or refuse to renew a driver's licence are contained within Section 61 of the Act, where the applicant/licence holder has been convicted of an offence involving dishonesty, indecency, violence; failure to comply with the provisions of the Town Police Clauses Act 1847; failure to comply with the provisions of Part II of the Local Government (Miscellaneous Provisions) Act 1976; or any other reasonable cause.
- 4.3 Section 61 (2B) allows the Licensing Authority, if it appears that in the interests of public safety, to suspend or revoke a driver's licence with immediate effect. A Decision Notice explaining why this decision has been taken will be issued to the driver and will have effect when the notice is given to the driver. The driver may appeal this decision but may not drive during the appeal period.
- 4.4 Section 62 of the Act allows the Licensing Authority to suspend, revoke or refuse to renew an operator's licence if the applicant/licence holder has been convicted of an offence under or non compliance with the provisions of Part II of the Act; or grounds of any conduct on the part of the operator which appears to the Council to render him unfit , or due to any material change since the licence was granted in any of the circumstances of the operator on the basis of which the licence was granted or any other reasonable cause.
- 4.5 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.

5.0 Consideration of disclosed criminal history

- 5.1 Under the provisions of Sections 51, 55, and 59, of the Act, the Licensing Authority is required to ensure that an applicant for the grant or renewal of a driver / operator licence is a 'fit and proper' person to hold such a licence. However, if an applicant / licence holder has any matters to be considered, the Licensing Authority may take into account:

:

- 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 and age of applicant at time of conviction;
- Sentence imposed by the court;
- Whether they form part of a pattern of offending;
- Any other factors that might be relevant.

6.0 Violence

6.1 Licensed drivers have close regular contact with the public. A serious view will be taken with those who have a conviction(s) or other matter(s) to be considered involving violence. An application will normally be refused or existing licence suspended or revoked if the applicant / licence holder has a conviction for an offence that involved the loss of life.

6.2 In other cases anyone of a violent disposition is unlikely to be licensed until **at least 3 years** free of such conviction(s) or other matter(s) to be considered. However, given the range of the offences that involve violence, consideration must be given to the nature of the offence.

6.3 Unless there are exceptional circumstances, an application will normally be refused or existing licence suspended or revoked where the applicant / licence holder has a conviction for an offence such as:

- Murder;
- Manslaughter;
- Manslaughter or culpable homicide while driving;
- Terrorism offences;
- Or any similar offences or offences which replace the above.

6.4 An application will normally be refused or an existing licence suspended or revoked where the applicant / licence holder has a conviction(s) or other matter(s) to be considered for an offence listed below and the conviction(s) or other matter(s) to be considered is **less than 10 years** prior to the date of application:

- Actual bodily harm which is racially / religiously aggravated;
- Arson;
- Assault Police;
- Common assault which is racially / religiously aggravated;
- Criminal damage which is racially / religiously aggravated;
- Grievous bodily harm with intent;

- Malicious wounding or grievous bodily harm which is racially aggravated;
- Possession of firearm;
- Resisting arrest;
- Riot;
- Robbery;
- Violent disorder;
- Similar offences or offences which replace the above.

6.5 An application will normally be refused or an existing licence suspended or revoked where the applicant / licence holder has a conviction(s) or other matter(s) to be considered for an offence listed below and the conviction(s) or other matter(s) to be considered is **less than 3 years** prior to the date of application:

- Affray;
- Assault occasioning actual bodily harm;
- Common assault;
- Criminal damage;
- Obstruction;
- Possession of a weapon (or imitation weapon) or any other weapon related offence other than a firearm;
- 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);
- Similar offences or offences which replace the above.

6.6 An application will normally be refused if an applicant has more than one conviction or other matter to be considered in the last **10 years** for an offence of a violent nature.

7.0 Sex and indecency offences

7.1 As licensed drivers often carry unaccompanied and vulnerable passengers, a firm line is to be taken with those who have convictions or other matters to be considered for sexual offences. An application will normally be refused or existing licence suspended or revoked for convictions or other matters to be considered for the more serious sexual offences. For other offences, applicants will be expected to show a substantial period free of conviction or other matter to be considered for such offences before an application will be approved.

7.2 Unless there are exceptional circumstances, an application will normally be refused or an existing licence suspended or revoked where the applicant / licence holder has a conviction(s) or other matter(s) to be considered for an offence such as:

- Assault by penetration;
- Exploitation of prostitution;
- Indecent assault;
- Offences involving children or vulnerable adults;
- Possession of indecent photographs, child pornography etc;
- Rape;
- Sexual assault;
- Trafficking for sexual or other exploitation;
- Similar offences or offences that replace the above.

7.3 An application will normally be refused or an existing licence suspended or revoked where the applicant / licence holder has a conviction(s) or other matter(s) to be considered for an offence listed below and the conviction(s) or other matter(s) to be considered is **less than 7 years** prior to the date of application:

- Indecent exposure;
- Soliciting (kerb crawling);
- Similar offences or offences which replace the above.

7.4 In addition to the above the Licensing Authority is unlikely to grant a licence to any applicant who is currently on the Sex Offenders Register.

7.5 An application will normally be refused if an applicant has more than one conviction or other matter to be considered for a sexual offence.

8.0 Dishonesty

8.1 An applicant or existing licence holder is expected to be a trustworthy person. They deal with cash transactions and valuable property which may be left in their vehicles. Licence holders are required to deposit such property with police within 24 hours. 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.

8.2 An application will normally be refused or an existing licence suspended or revoked where the applicant / licence holder has a conviction(s) or other matter(s) to be considered for an offence listed below and the conviction or other matter to be considered is **less than 3 years** prior to the date of application:

- Benefit fraud;
- Burglary;
- Conspiracy to defraud;
- Forgery;
- Fraud;
- Handling or receiving stolen goods;
- Obtaining money or property by deception;
- Other deception;
- Taking a vehicle without consent;
- Theft;
- Similar offences or offences which replace the above.

9.0 Drugs

9.1 A serious view is taken of any drug related offence. The Licensing Authority will consider the nature and quantity of the drugs involved within the following offences:

- Cultivation of a controlled drug;
- Importation of a controlled drug;
- Production of a controlled drug;
- Supply of a controlled drug;
- Or similar offences.

9.2 An application will normally be refused or an existing licence suspended or revoked where the applicant / licence holder has a conviction(s) or other matter(s) to be considered for any of the above offences and has not been free of conviction(s) or other matters to be considered for **at least 5 years**.

9.3 An application will normally be refused or an existing licence suspended or revoked where the applicant has more than one conviction or other matter to be considered for offences related to the possession of drugs and has not been free of conviction or other matter to be considered for **at least 5 years**.

9.4 An application will normally be refused or an existing licence suspended or revoked where the applicant / licence holder has an isolated conviction or other matter to be considered for an offence related to the possession of

drugs within **the last 3 years**. Consideration should be given to the nature and quantity of the drugs involved.

- 9.5 If there is evidence of persistent drugs use, misuse or dependency a specialist medical examination (in accordance with DVLA Group 2 medical standards) may be required. If the applicant was an addict then they would normally be required to show evidence of **3 years** free from drug taking.

10.0 Driving offences involving the loss of life

- 10.1 A very serious view is to be taken of any applicant or existing licence holder who has a conviction or other matter to be considered for a driving offence that resulted in the loss of life.

- 10.2 An application will normally be refused or an existing licence suspended or revoked where the applicant / licence holder has a conviction(s) or other matter(s) to be considered for any of the offences listed below and has not been free of conviction or other matter to be considered for **7 years**.

- Causing death by careless driving whilst under the influence of drink or drugs;
- Causing death by dangerous driving;
- Or any similar offences.

- 10.3 An application will normally be refused or an existing licence suspended or revoked where the applicant / licence holder has a conviction(s) or other matter(s) to be considered for any of the offences listed below and has not been free of conviction or other matter to be considered for **5 years**.

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

11.0 Drink driving/driving under the influence of drugs

- 11.1 A serious view will be taken of a conviction(s) or other matter(s) to be considered for driving or being in charge of a vehicle while under the influence of alcohol / drugs. A single conviction or other matter to be considered may not result in an application being refused or an existing licence being suspended or revoked, provided that **at least 3 years** have elapsed since the ending of the disqualification. A conviction or other matter to be considered for 'refusing or failing to provide a specimen' will be treated in the same way.

11.2 Applicants with more than one conviction or other matter to be considered for driving or being in charge of a vehicle under the influence of alcohol / drugs or refusing or failing to provide a specimen are unlikely to be granted a licence unless a period of **10 years** has elapsed after the restoration of the driving licence following the last conviction or other matter to be considered.

12.0 Motoring Convictions

12.1 Major Traffic Offences

12.2 For the purposes of this Policy 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
DD40	Dangerous driving
DD90	Furious driving
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

12.3 An application will normally be refused or an existing licence suspended or revoked where the applicant / licence holder has a conviction or other matter to be considered for a major traffic offence and has not been free of the conviction or other matter to be considered for **at least 6 months**.

- 12.4 An applicant with more than one Major Traffic Offence, within the last 5 years will normally be refused and no further application should be considered until a period of **at least 3 years** free from such convictions or other matters to be considered have elapsed.
- 12.5 If any conviction or other matter to be considered for a Major Traffic Offence results in a disqualification, applicants should refer to the section of these guidelines entitled "disqualification".
- 12.6 **Disqualification from driving**
- 12.7 The Licensing Authority will treat a period of a disqualification as being that which a driver would have been eligible to serve, and may disregard the decision of a court to waive or reduce a disqualification period either on the grounds of exceptional hardship under S.35 of the Road Traffic Offenders Act 1988 or for "special reasons" under S.34 of the Road Traffic Offenders Act 1988.
- 12.8 An application will normally be refused or an existing licence suspended or revoked where the applicant / licence holder has a recent conviction or other matter to be considered resulting in a period of disqualification of less than 56 days unless a period of **at least 6 months** has elapsed from the end of the disqualification period.
- 12.9 An application will normally be refused or an existing licence suspended or revoked where the applicant / licence holder has a recent conviction or other matter to be considered resulting in a period of disqualification of up to 12 months unless a period of **at least 12 months** has elapsed from the end of the disqualification period.
- 12.10 An application will normally be refused or an existing licence suspended or revoked where the applicant / licence holder has a recent conviction or other matters to be considered resulting in a period of disqualification of 12 months or more, unless a period of **at least 18 months** has elapsed from the end of the disqualification period.
- 12.11 The Licensing Authority will not normally grant an application for a private hire or hackney carriage driver's licence from a person who has been disqualified from driving for a period of 5 years or more, unless a period of **at least 7 years** has elapsed from the end of the disqualification period.
- 13.0 **Minor Traffic Offences**
- 13.1 Other Traffic Offences not listed within this policy will be treated as 'Minor Traffic Offences'. A minor driving offence is one that incurs between 1 and 3 penalty points.

13.2 Where an applicant / licence holder has one conviction or other matter to be considered for a minor driving offence, this will not usually result in refusal or suspension / revocation.

13.3 More than one minor traffic conviction or other matter to be considered may result in a refusal, particularly where there are several convictions or other matters to be considered for the same offence e.g. speeding. A licensed driver may be referred to the Licensing Committee where there are more than two offences.

14.0 Outstanding charges or summonses

14.1 If the individual is the subject of an outstanding charge or summons their application can continue to be processed, but in the interest of public safety the matter will be considered and may be deferred for determination until proceedings are concluded.

15.0 Non-conviction information

15.1 If an applicant or existing licence holder has been arrested or charged, but not convicted, for a serious offence which suggests he/she could be a danger to the public, consideration should be given to refusing or suspending / revoking the application / licence.

16.0 Repeat offending

16.1 While it is possible that an applicant may have a number of convictions or other matters to be considered that individually meet the above guidelines, an application will normally be refused where an applicant has a record of repeat offending which shows a lack of regard for the well being of others or for property, unless a period of **at least 10 years** has elapsed since the most recent conviction or other matters to be considered.

17.0 Breach of Legislation, Byelaw or Licence Condition

17.1 An applicant who has a conviction or other matters to be considered for a breach of legislation, byelaw or licence condition is unlikely to be granted a licence unless a period of **at least 12 months** has elapsed since the most recent breach.

17.2 An existing licence holder found to be in breach of legislation, byelaw or licence condition is on the first occasion, likely to be warned in writing as to future conduct, provided that the breach did not compromise the safety of passengers or that the public were not put at risk.

- 17.3 Where an existing holder is found to have more than one breach of licensing legislation, byelaw or licence condition, or a single serious breach, the Licensing Committee may suspend or revoke the licence.
- 17.4 The above is irrespective of any legal proceedings which may be pending or have been taken.

Final version: Dated 13th September 2013