

**LICENSING SUB A COMMITTEE'S  
GUIDELINES IN CONSIDERING  
APPLICATIONS FOR HACKNEY CARRIAGE  
DRIVERS, PRIVATE HIRE DRIVERS AND  
PRIVATE HIRE OPERATORS LICENCES**

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## LICENSING SUB A COMMITTEE'S GUIDELINES IN CONSIDERING APPLICATIONS FOR HACKNEY CARRIAGE DRIVERS, PRIVATE HIRE DRIVERS AND PRIVATE HIRE OPERATORS LICENCES

### REFERRAL TO COMMITTEE

- A The Assistant Director (Environmental Health & Trading Standards) has delegated powers to issue licences in respect of hackney carriage drivers, private hire drivers and private hire operators.
- B The Assistant Director (Environmental Health & Trading Standards) only has power to refuse such licences where an applicant has failed his knowledge test or is currently disqualified from. The Assistant Director (Environmental Health & Trading Standards) only has the power to revoke an existing drivers licence where the licence-holder is disqualified from driving and no longer holds a licence under Part III of the Road Traffic Act 1998 authorising him to drive a motor vehicle.
- C Subject to D below, the Assistant Director (Environmental Health & Trading Standards) must refer to the appropriate Committee all applications or changes in the circumstances of an existing licence-holder which show:
- (i) any offence of dishonesty, indecency, violence drunkenness or involving drugs; or
  - (ii) any traffic offences in the past three years, if the total number of penalty points exceeds six; or
  - (iii) a traffic offence, in the past ten years, which resulted in disqualification from driving, :or
  - (iv) Any offence under hackney carriage or private hire licensing legislation

The Assistant Director (Environmental health and Trading Standards) **may** refer to the appropriate Committee any applications or changes in the circumstances of licence-holders which show:

- complaints or allegations which reflect upon the person's conduct or behaviour
- any breach of licensing conditions

- D The Assistant Director (Environmental Health & Trading Standards) is authorised to approve applications for new licences or renewals in cases where criminal and driving convictions are all more than 10 years old, except in the following circumstances when the matter will be referred to the Committee:
- where the applicant has a conviction for an indictable only offence;
  - where the applicant has a conviction for a serious sexual offence; or
  - where the convictions are all more than 10 years old and fall outside the above but it is felt that the circumstances justify refusal.

## **ROLE OF THE COMMITTEE**

- A For the purposes of its licensing functions, the Committee acts as an impartial quasi judicial Licensing Authority. Its role is to determine whether licences should be granted, renewed or in cases where licences fall below the standards required by the Authority, to revoke, suspend or warn those licensees.
- B In hearing cases sufficient opportunity should be given to the applicant, and to the Council's licensing representative, to present their cases.
- C Both the applicant and the Licensing Department's representatives are open to cross-examination from each other and by the members of the Committee.
- D The cross-examination should take the form of questions only. (It must be remembered that the purpose of the hearing is to hear both sides of the case and not to lecture the applicant, as regards the standard expected of him. If the applicant is found to be wanting in the standards expected, then the time for bringing this to his attention is after the Committee have made their determination.)
- E The Committee should not discuss the case in front of either the applicant or the Licensing Department's representatives. Any such discussion should be in closed session.

## **GENERAL GUIDANCE AND POLICY**

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| Must be fit and proper | 1 | A licence shall not be granted to an applicant unless the Committee is satisfied that the applicant is a fit and proper person to hold such a licence. |
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Persons refused in the past	2	<p>Persons who have been refused licences in the past, on the grounds that they are not fit and proper persons, are not debarred from being granted licences. The Committee, however, <b>must be able to justify why that person is now considered by them as a fit and proper person to hold such a licence.</b> To do this it will be necessary to look at the reasons why the applicant was initially refused and then consider what has occurred since to indicate that the applicant is now fit to hold a licence.</p> <p>The lapse in time that has occurred, changes in domestic or business circumstances, added responsibilities are examples that <b>may</b> be relevant.</p>
Persons granted in the past	3	<p>Similarly, those persons who have been granted licences in the past have been considered to be fit and proper persons to hold such licences. <b>To refuse a renewal of such a licence there must be a change in circumstances or new evidence presented to the Committee before a refusal can be justified.</b></p>
Meaning of fit and proper	4	<p>The term 'fit and proper person' refers only to whether that person is fit and proper to drive a hackney carriage or private hire vehicle, or to act as an operator of a private hire vehicle.</p>
	5	<p>There is no definition of the term 'fit and proper', this is <b>for the Committee to determine</b>, however, regard should be had to the applicant's driving standards and experience, his character and any relevant previous convictions.</p>
Treat each application on its merits	6	<p><b>Each application for a licence should be considered on its own merits.</b></p>
Main concern public safety	7	<p><b>The over-riding consideration shall always be the safety and protection of passengers and the general public and all other matters</b> including unemployment and home circumstances, <b>shall be secondary</b> to the public safety factor.</p>
Driving experience	8	<p>As required by law, no application shall be granted where the applicant has held a full driving licence for less than one year. In addition, applications should not be granted unless the applicant also has <b>adequate driving experience.</b></p>

Conduct of driver	9	Conduct of licence holders is relevant in considering revocation or suspension of their licence.
Drivers already licensed	10	Where a licence holder is found to be <b>no longer a fit and proper person</b> to hold a licence, <b>a licence must be revoked</b> . If, however, it is considered that a person is still a fit and proper person to hold such a licence but that his <b>conduct falls below the standard required</b> by the Licensing Authority, the Committee <b>may</b> decide to <b>suspend</b> him for such a period of time it considers fit <b>or to issue him with a warning</b> .
Use of suspension	11	<b>The aim of the suspension of a licence is to bring a driver who is falling below the standards required, back into line and not to penalise him</b> . If it is felt that a warning should be sufficient to do this then a warning should be preferred to a suspension.
Complaints of drivers' standards, conduct of behaviour		Where <b>evidence of complaints</b> about a driver's standards, conduct or behaviour or other allegations which reflect upon the conduct or behaviour of a driver are brought before the Committee and the driver disputes those allegations, the Committee should <b>first consider whether those complaints or allegations can be substantiated</b> .
Reliance on evidence	13	In hearing evidence the Committee is not subject to the strict rules of evidence. Care, however, should be taken in determining the relevance and admissibility of any evidence. Where evidence has been presented which later deemed to be not relevant or admissible, the members should take care to exclude such from their minds when making their decision.
	14	The Committee should be careful to attach the correct weight to evidence presented to them. An independent witness with nothing to gain is more likely to give an unbiased account than someone who has a personal interest in the case. Corroborative evidence will add weight. If evidence is presented without calling the witness to that evidence, then great care should be taken in relying upon such.

## GUIDELINES RELATING TO THE RELEVANCE OF CONVICTIONS

Convictions previously considered where no change of circumstances	1	Applications for the renewal of hackney carriage driver's licences, private hire vehicle driver's licences and private hire operators licences shall not be refused on the grounds of previous convictions, where the applicant has been previously granted a licence and no further convictions have occurred.
Correctness of conviction not to be questioned	2	Where evidence of previous convictions are presented to the Committee, the Committee must accept that the applicant was correctly convicted. Subject to this, the Committee may, however, look at the circumstances of the offence to determine its seriousness. The sentence imposed by the Court may be relevant to determine its seriousness. It is, however, important to note that in imposing a fine the Court will take account of the offender's family and financial circumstances.
Consideration of spent convictions	3	The Committee can consider convictions which are usually regarded as spent convictions for the purpose of The Rehabilitation of Offenders Act 1974.
	4	Such convictions can be considered by virtue of the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 as amended.
Licences not normally to be granted where convictions for serious crime within the last 3-5 years	5	A person with a current conviction for serious crime (i.e an indictable offence) need not be permanently barred from obtaining a licence, but should be expected to remain free of conviction for three to five years, according to the circumstances, before an application is granted. Some discretion may be appropriate if the offence is isolated and there are mitigating circumstances.
	6	The following examples afford a <b>general guide</b> on the action to be taken where convictions are admitted:
	(a)	<b>Minor Traffic Offences</b>
Meaning	(i)	Minor traffic offences (are offences where the statutory penalty does not allow for a period of imprisonment) include obstruction, speeding, waiting in a restricted street, failing to comply with traffic regulations.
Considerations	(ii)	Convictions for minor traffic offences should not prevent a person being considered for a licence.

- (iii) In considering minor traffic offences one should take into account the number, the type and the frequency of the offences.
- Effect of disqualification
  - (iv) Where several minor traffic offences have resulted in the applicant being disqualified from driving for a period of time, this should be taken as reflecting seriously on the applicant's driving standard. Regard should be had to the length of time that has passed since the restoration of his licence and his driving standard.
  - (v) If a licence is granted to a previously disqualified driver in (iv) above, a warning should normally be issued as to future conduct.
- (b) Major Traffic Offences**
- Meaning
  - (i) Major traffic offences (i.e. offences where the penalty could include a term of imprisonment) include reckless driving and driving without due care and attention, causing death by reckless/dangerous driving, failing to provide a specimen of breath for a breath test.
- Consideration
  - (ii) An isolated conviction for a major traffic offence should merit at least a warning as to future driving and advice on the standard expected of licensed drivers. The seriousness of the circumstances surrounding the convictions and the applicant's driving history since should determine whether a licence should be granted.
  - (iii) **More than one such major traffic conviction within the last two years should merit refusal and no further application should be considered until a period of three years free from conviction has elapsed.**
- (c) Drunkenness**
- (i) With motor vehicles:
  - (a) A serious view should be taken of convictions of driving or being in charge of a vehicle while under the influence of drink.
  - (b) Where disqualification has occurred as a result of a drink driving offence, at least three years free from conviction should elapse (after the restoration of the driving licence) before an

applicant is granted a licence.

- (c) An isolated incident should not necessarily debar an applicant from being granted a licence, but strict warnings should be given as to future behaviour.
- (d) More than one conviction for these offences should raise grave doubts as to the applicant's fitness to hold a licence.
- (e) If there is any suggestion that the applicant is an alcoholic, a special medical examination should be arranged before the application is entertained. If the applicant is found to be an alcoholic, a period of five years should elapse after treatment is complete before a further licence application is considered.

Alcoholics and medical examinations

- (ii) Not in motor vehicles:

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

- (d) **Drugs**

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

- (e) **Indecency Offences**

Presumption against approval

As hackney carriage and PHV drivers often carry unaccompanied passengers, **applicants with convictions for indecent exposure, indecent assault, importuning, or any of the more serious sexual offences, should be normally refused.** If an applicant can show a substantial period (at least five years) free of such offences, then the Sub Committee should consider the application on its merits. Only if there are clearly defined grounds which would justify approving the application should such an application be entertained. **The presumption, however, should be against approval.**



**(f) Violence**

As hackney carriage and PHV drivers maintain close contact with the public, a firm line should be taken with applicants who have convictions for grievous bodily harm, wounding or assault. **At least three years free of such convictions should be shown before a licence is granted.** And even then a strict warning should be administered.

**(g) Dishonesty**

Hackney carriage and PHV drivers are expected to be persons of trust. The widespread practice of delivering unaccompanied property is indicative of the trust that business people place in drivers. Moreover, it is comparatively easy for a dishonest driver to defraud the public by demanding more than the legal fare etc. Overseas visitors can be confused by the change in currency and become 'fair game' for an unscrupulous driver. For these reasons a serious view should be taken of any conviction involving dishonesty. In general, **a period of three to five years free of conviction should be required before granting a licence.**