

Policy Statement on Guidelines to Convictions, Cautions, Complaints and other relevant matters

Including Statement of Policy about Relevant Convictions, Cautions, Complaints and other relevant matters

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Foreword

The Policy statement was originally approved by the Cabinet of the Council on 21st March 2007. This is a tried and tested Policy that has proved to be an invaluable tool for officers and members of the Licensing Committee. Since its adoption there has been some legislative changes and as such, it is prudent to review the Policy.

Purpose of Report

This report is accompanied by a draft-revised statement of policy and guidelines and applies to those persons making a new or renewal application for a hackney carriage or private hire driver licence and when considering whether to suspend, revoke or refuse to renew an existing driver's licence.

Summary of changes:

Change of name to Policy

There is a proposed name change for the policy from "Policy statement on guidelines to convictions including statement of Policy about relevant convictions" to "Policy statement on guidelines to convictions, cautions, complaints and other relevant matters including statement of Policy about relevant convictions" The purpose of this is to clarify that the Policy deals with matters other than just convictions.

Introduction

The following introduction has been added to the policy:

This policy aims to provide guidance to all parties with an interest in public and private hire licensing thereby providing transparency and consistency in accordance with the principles of good enforcement and relevant Regulatory Compliance Codes. This policy will be of particular interest to:

- Applicants for drivers' licences
- Existing licensed drivers whose licences are being reviewed
- Licensing officers
- Members of the Licensing Committee/ Sub-Committee (or other relevant decision making body)
- Magistrates hearing appeals against Rossendale Borough Council decisions

This policy deals with individual's including existing licence holders, applicants for a new driver licence, and an applicant for the renewal of an existing licence.

Statement of Policy about relevant convictions, cautions, complaints and other relevant matters

1.1 The policy is intended to give guidance on one aspect of whether a person is or is not a fit and proper person namely the situation where a person has previous convictions and cautions.

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Reworded to:

- 1.1 This policy is intended to give guidance on one aspect of whether a person is or is not a “fit and proper” person, specifically in the situation where a person has previous convictions, cautions and / or fixed penalties.
- 1.3 Licensing Unit amended to Licensing and Enforcement Unit
- 1.4 When an application for a licence to drive a hackney carriage or private hire vehicle is submitted, applicants are required to declare all previous convictions they may have including all formal cautions and all endorsements / fixed penalties they have received.
- 1.5 Removal of additional word ‘and’

Reworded to:

- 1.4 When an application for a licence to drive a hackney carriage or private hire vehicle is submitted, applicants are required to declare all previous convictions they may have, this includes all formal cautions and all fixed penalties they have received.
- 2.1 “Criminal Records Bureau” omitted and replaced with “Disclosure and Barring Service”
- 2.2 “Criminal Records Bureau” omitted and replaced with “Disclosure and Barring Service”
- 2.5 Removal of repeated bullet point “when the offence was committed”
- 3.1 The word “ground” replaced with “grounds”

Guidelines on the relevance of previous convictions, cautions, complaints and other relevant matters

General Policy:

- 2) The word “is” has been inserted before the word “possible”
- 3) The following example has been added to the existing list:
 - f) offences against children and young persons

The following wording has been removed “and would not take advantage of passengers or abuse or assault them”.

The final sentence has been included in the first paragraph for ease.

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- 4) The word “crime” has been replaced with the word “offence”
- 5) The words “for example” omitted from the first sentence

Offence of: - Dishonesty:

“1992” added to the end of “Social Security Administration Act”

“Bribery” and “Offences of possession goods with false trade mark for sale or hire-Trade Marks Act 1994” added to the list of offences in the first trunk

Final 2 bullet points removed and redrafted into paragraph format.

Final paragraph amended for clarification.

Offence of: - Violence:

Following further consultation with the legal department, Chair of the Licensing Committee and the Portfolio Holder throughout February 2014, the violence section of the policy has been re-drafted – see Appendix A for clarification

Offence of: - Drugs:

First paragraph reworded for clarification

Offence of: - Sexual and Indecency Offences

New opening paragraph included as follows:

(i) Offences against Children (under 14 years) and Young Persons (aged 14 to 17 years)

Drivers of hackney carriage and private hire vehicle are often entrusted with the care of children and young persons. It is comparatively easy for an unscrupulous driver to take advantage of such vulnerable persons. Where the commission of a sexual offence involves a child or young person an application for a licence will normally to be refused.

New heading as follows given to existing and retained:

(ii) Offences against persons other than children and young persons

Motoring Convictions

1) Disqualification:

The word “application” replaced with the word “applicant” and “past” with the word “passed” in the first paragraph.

The following wording removed on legal advice from the end of the first paragraph “or a major traffic offence”.

2) Major Traffic Offences

In title – “ii” changed to “2”

Paragraph reworded on legal advice for clarification.

3) Minor Traffic Offences

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In title – “iii” changed to “3)”

Paragraph reworded on legal advice for clarification.

4) Hybrid Traffic Offences

In title – “iv” changed to “4)”

“Offences if the type listed in Appendix III” from the first sentence reworded to:

“Offences of the type listed in Appendix II”

Offences under the Town Police Clauses Acts and Part II of the Local Government (Miscellaneous Provisions) Act 1976 and Hackney Carriage Byelaws

The word “legal” replaced with “Local” on the description of legislation – clerical error rectified.

Paragraph reworded on legal advice for clarification.

Drunkenness

i. With a motor vehicle

Paragraph reworded on legal advice for clarification.

ii. Not in a motor vehicle

No proposed changes

Spent Convictions

No proposed changes

Caution, Reprimands and Fixed Penalties

The word “endorsable” has been removed in relation to fixed penalties.

Reprimands have been included

Other relevant offences *(This is a new section)*

The Council takes a serious view of any convictions involving the law and practice concerning bail conditions. In general if an application is received with a conviction which is less than 3-5 years of the conviction date, it is unlikely to be considered favourably.

In particular, an application will normally be refused where the applicant has a conviction for offences committed under the:

- Bail Act 1976;
- Bail (Amendment) Act 1993;
- Magistrates' Court Act 1980;
- Magistrates' Court Rules 1981;
- Criminal Justice Act 2003
- Powers of Criminal Courts (sentencing) Act 2000

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or similar offences or offences which replace the above offences and the conviction(s) are less than 3 years prior to the date of application. Between 3 and 5 years, regard will be had to the circumstances of the offence and any evidence demonstrating that such a person is now a fit and proper person to hold a licence.

New major traffic offence codes added to Appendix I:

BA20 is now BA30 – Attempting to drive while disqualified by order of Court

CD40 – Causing death through careless driving when unfit through drink

CD50 – Causing death by careless driving when unfit through drugs

CD60 – Causing death by careless driving with alcohol level above the limit

CD70 – Causing death by careless driving then failing to supply a specimen for

CD80 – Causing death by careless, or inconsiderate, driving

CD90 – Causing death by driving: unlicensed, disqualified or uninsured drivers

DD60 – Manslaughter or culpable homicide while driving a vehicle

DD80 – Causing death by dangerous driving

DD90 – Furious driving

MS60 – Offences not covered by other codes (including offences relating to breach of requirements as to control of vehicle) – new wording in brackets

TT99 – To signify a disqualification under 'totting-up' procedure. If the total of penalty points reaches 12 or more within three years, the driver is liable to be disqualified

New minor traffic offence codes added to Appendix II:

CU80 – Using a mobile phone while driving a motor vehicle

NB: Appendix III has been merged into Appendix II

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