



Gateshead
Council

HACKNEY CARRIAGE AND PRIVATE HIRE LICENCES

Policy on the Relevance of
Criminal Conduct and
Complaints against Licence
Holders

Contents

<u>Section</u>	<u>Page Number</u>
Introduction to Guidelines	3
Driving Offences – New Applicants	10
Driving Offences – Existing Licence Holders	14
Insurance Offences	17
Sexual Offences	18
Drunkenness	19
Drug Offences	21
Violence	22
Dishonesty	24
Complaints Against Drivers	25
Conclusion	26
Appendices	27

Introduction to the Policy Relating to the Relevance of Criminal Conduct

Powers and Duties

The Local Government (Miscellaneous Provisions) Act 1976, as amended, places on Gateshead Council (the “Authority”) the duty to carry out its licensing functions in respect of hackney carriage and private hire vehicles.

Objectives

Taxis and private hire licensees have a specific role to play in an integrated transport system. They are able to provide services in situations where public transport is either not available (for example in rural areas, or outside “normal hours” of operation such as in the evenings or on Sundays), or to those with mobility difficulties.

In setting out its policy, Gateshead Council seeks to promote the following objectives:

- (i) The protection of public health and safety;
- (ii) The establishment of a professional and respected hackney carriage and private hire trade;
- (iii) Access to an efficient and effective public transport service;
- (iv) The protection of the environment;
- (v) Improve standards of service and the visibility of hackney carriages/private hire vehicles in support of the regeneration of Gateshead.

The aim of the licensing process, in this context, is to regulate the hackney carriage and private hire trade in order to promote the above objectives. It is the Authority’s wish to facilitate well-run and responsible businesses, which display sensitivity to the wishes and needs of the general public.

When considering each of the policies detailed in this document we have tried to ensure that each requirement is properly justified by the risk it seeks to address, balancing the cost of the requirement against the benefit to the public. In accordance with the guidance, when considering each policy, the following question has been asked;

“whether those costs are really commensurate with the benefits a policy is meant to achieve”.

Best Practice Guidance

In formulating this policy, advice contained in the Taxi And Private Hire Vehicle Licensing Best Practice Guidance issued by the Department for Transport has been taken into account.

Status

In exercising its discretion in carrying out its regulatory functions, the Council will have regard to this policy document and the objectives set out above.

Notwithstanding the existence of this policy, each application or enforcement measure will be considered on its own merits. Where it is necessary for the Authority to depart substantially from its policy, clear and compelling reasons will be given for doing so. The purpose of this document is to formulate guidelines which detail the Council's current stance on the relevance of criminal conduct in respect of applications for the grant of new licences, and the renewal of existing hackney carriage and private hire vehicle driver's, operator's and proprietor's licences.

These guidelines have been produced to assist the Regulatory Committee in their decision-making and to maintain the consistency of the decisions made. They have also been formulated to provide clearer information to current licence holders and potential applicants, with a view to minimising cost and time spent by both the licence holder or applicant and the Council.

The aim of the licensing regime to which these guidelines relate is not to punish the applicant twice for an offence (which includes a conviction or caution), but to ensure that public safety is not compromised.

The objective of the licensing regime is to ensure that, so far as possible, those licensed to drive hackney carriages and private hire vehicles are suitable persons to do so, namely that they are safe drivers with good driving records and adequate experience, sober, mentally and physically fit, and honest; and that they are persons who would not take advantage of their position to abuse, assault or defraud customers.

These guidelines will be taken into account by the Regulatory Committee and its officers when dealing with new applications as well as renewal applications for an existing private hire/hackney carriage driver's licence, private hire/hackney carriage vehicle licence, and a private hire operators licence, and also, when considering whether to suspend or revoke an existing licence.

Each case is to be decided on its own merits.

Experience

A person is not able to successfully apply for a hackney carriage or private hire licence until they have held a UK driving licence for a minimum of 12 months or an equivalent foreign licence, issued by a competent licensing authority in another Sovereign State.

Section 51 (1)(b) of The Local Government (Miscellaneous Provisions) Act 1976 states:

“Provided that a district council shall not grant a licence to any person who has not for at least twelve months been, and is not at the date of the application for a driver’s licence, the holder of a licence granted under Part 3 of the Act of 1972 (not being a provisional licence) authorising him to drive a motor car.”

Suitability

The Local Government (Miscellaneous Provisions) Act 1976 deals with the issue of driver suitability:

“...Council shall not grant a licence to drive a (Private Hire/Hackney Carriage Vehicle) unless they are satisfied that the person is a **fit and proper person** to hold a driver’s licence.”

Section 61 of the Local Government (Miscellaneous Provisions) Act 1976 states:

“...the district council may suspend or revoke or refuse to renew the licence of a driver of a hackney carriage or a private hire vehicle on any of the following grounds –

- 1) that he/she has, since the grant of the licence,
 - i) been convicted of an offence involving dishonesty, indecency or violenceor
 - ii) been convicted of an offence under or has failed to comply with the provisions of the Town Police Clauses Act 1847 or Part of this Act.

or

- 2) any other reasonable cause.”

Therefore the wording of the legislation makes it clear that the Council may grant a licence ONLY if it is satisfied that the person is fit and proper – the onus is on the applicant to prove this, NOT the Council to demonstrate that they are not.

Criminal conduct

The Regulatory Committee are required to look at any relevant indicators that may affect a person's suitability to hold a hackney carriage/private hire driver's licence, and to consider the possible implications of granting such a licence to that person. If a person has been involved in criminal activity, this may be relevant to the Regulatory Committee's considerations. Convictions, formal cautions, fixed penalties, speeding offences, and the imposition of a fixed penalty in place of a prosecution under any enactment may be relevant indicators of a person's suitability to hold a licence.

As part of the licence conditions, the applicant is required to disclose **all** fixed penalties, convictions and cautions. For this purpose the applicant will be asked to complete a "statutory declaration of convictions" form, which must be sworn before a solicitor, commissioner for oaths or Justice of the Peace, who must counter-sign the form and they will levy a fee for this service. If it is later found that the applicant gave false information, he / she will be required to attend a hearing of the Regulatory Committee, and their licence may be revoked.

Therefore **all** convictions must be disclosed, including spent convictions. *The Rehabilitation of Offenders Act 1974 s 4, and Rehabilitation of Offenders Act (Exceptions) Order 1975, taken together mean that an applicant for a taxi licence has to disclose all convictions, even if they would normally be considered "spent", and the Regulatory Committee may take them into account when making its decision if it is satisfied that justice requires them to be considered.*

In addition, applicants must disclose any formal cautions and/or accepted fixed penalties they have received and any pending matters. The Regulatory Committee will of course note that when a person has pending matters, the fact that they have been accused of a crime does not infer their guilt.

Failure to disclose live and spent convictions on an application form or in writing to the Council will result in a hearing before the Regulatory Committee.

If a Licence has been granted to a person on the basis of false or incomplete information supplied by them, the Regulatory Committee may revoke the Licence. If the applicant wishes to submit a further application it will be considered in the light of the full information then available to the Regulatory Committee.

The disclosure of any conviction will not necessarily prevent an applicant from being issued a licence. However, all convictions, spent or live, will be assessed.

If a licence holder receives a conviction or formal caution, accepts a penalty notice or points on his / her driver's licence during the period of a Licence, they must disclose this in writing to the Council within 7 days of the conviction, formal caution or points being imposed on him/her.

Formal cautions must also be disclosed and they will also be taken into consideration. Although these are generally not as serious as convictions, they can give some indication as to an applicant's character and whether they are a fit and proper person to hold or be granted a licence. The Regulatory Committee should bear in mind that a caution is given where there is sufficient evidence for a prosecution and guilt has been admitted.

Fixed penalties are issued for a wide variety of offences. There are two types: non endorsable and endorsable:

- Non-endorsable fixed penalties do not result in points being imposed on a person's licence, and allow an opportunity for an alleged offender to forego a prosecution in Court and to pay a penalty sum. These include parking offences, contravening a 'no U turn' or 'no entry' restriction, failing to use a seat belt, etc.
- Endorsable fixed penalties allow an opportunity for an alleged offender to forego a prosecution in Court and to accept points on his/her licence as well as the payment of a penalty sum. These include offences such as speeding and using a hand held mobile telephone whilst driving.

Penalty notices are similar to fixed penalties, but are issued for a wide range of offences of an anti social nature, including behaviour likely to cause harassment, alarm or distress to others, drunk and disorderly behaviour in a public place, destroying or damaging property up to the value of £500, retail theft under £200, sale of alcohol to a person under 18 years of age, selling alcohol to a drunken person or using threatening words or behaviour.

Recipients of a fixed penalty notice have 21 days to pay the penalty or to request a hearing, or the penalty will be reissued at one and a half times the original amount. Failure to pay a penalty may result in a higher fine imposed by the court or imprisonment.

Patterns

A series of incidents of criminal conduct over a period of time is more likely to give cause for concern than an isolated incident. A serious view will be taken when applicants show a pattern of incidents. If for example, the applicant has received three or more convictions for violent action, then, serious consideration should be made as to the suitability of that person holding a licence.

Periods Free from Conviction

Under the 1974 Act, criminal convictions can become spent after a certain period of time, and once spent, for many purposes, can be disregarded completely. The possibility of rehabilitation and the length of time before rehabilitation occurs depends on the sentence imposed, and not the offence committed. Where a person is sentenced to imprisonment for a period exceeding 30 months, the conviction can never become spent.

Despite the above, **the principles of the Act do not apply to applicants for hackney carriage and private hire drivers' licences.** This is because the driving of taxis is listed as a "Regulated Occupation" in relation to which questions may be asked as to the suitability of individuals to be granted a licence.

Although the Act does not prevent judicial authorities (inclusive of the Licensing Authority) from taking spent convictions into account, such convictions are only admissible in so far as they are relevant to the issue as to whether the applicant is a fit and proper person to hold a licence.

The determination as to whether certain convictions are spent, therefore, may be a relevant exercise.

All criminal conduct should be disclosed. Greater or less weight will be attached to each incident depending on –

- **The nature of the offence;**
- **The penalty imposed;**
- **The length of time since the offence or conviction (in which case the 1974 Act may be relevant as above); and**
- **Any relevant circumstances (including in mitigation).**

You may be asked to attend an interview with a Licensing Officer and/or a hearing before the Regulatory Committee to provide this information.

The various types of relevant offences to such an application fall into seven categories, i.e. –

- Traffic offences
- Insurance offences
- Sexual offences
- Alcohol related offences
- Drug related offences
- Violence offences
- Dishonesty offences

If a Court has found as a matter of fact that a person has committed an offence, or that person accepts a caution, that person cannot then say to the Regulatory Committee that he / she did not commit the offence; and if they seek to do so, their representations will not be taken into consideration. The applicant can, however, explain any mitigating factors that led to them committing the offence and the Regulatory Committee can take these into account in deciding whether the applicant is a fit and proper person to hold or be granted a licence.

If the applicant or holder of a licence has notified the Council of a conviction but is appealing against it to a higher Court, the matter may be referred to the Committee for a decision as to whether the licence / application should be suspended until such appeal is determined.

A “Fit and Proper Person”

Whether someone is a “fit and proper person” to hold a licence is ultimately a matter of common sense. When considering whether someone should serve the public, the range of passengers that a driver may carry should be borne in mind for example, elderly people, unaccompanied children, the disabled, those who have had too much to drink, lone women, foreign visitors and unaccompanied property.

Some areas give rise to particular concern, including -

- **Honesty and trustworthiness** – drivers often have knowledge that a customer is leaving a house empty; they have opportunities to defraud drunken, vulnerable or foreign people or to steal property left in cars. They must not abuse their position of trust. *For example, any passenger would expect to be charged the correct fare for a journey and then be given the*

correct change; they would also expect a driver to hand in any article left by a passenger in a vehicle; and also to maintain confidentiality between driver and passenger.

- **Not abusive** – drivers are often subject to unpleasant or dishonest behaviour. The Council does not consider that this excuses any aggressive or abusive conduct on the part of the driver. Drivers are expected to avoid confrontation, and to address disputes through the proper legal channels. In no circumstances should they take the law into their own hands.
- **A good and safe driver** – Passengers paying for a transport service rely on their driver to get them to their destination safely. Taxi and private hire drivers are expected to be professional drivers and should be fully aware of all Road Traffic legislation and conditions attached to the licence.
- **Familiarity** - Drivers are expected to have a good knowledge of the area that they are working in.
- **Health** – Drivers are expected to be physically and mentally fit to perform their role.
- **Language** – Drivers are expected to be able to read, speak and understand English, and must be able to make themselves easily understood by their passengers.

Protecting the Public

The over-riding consideration for the members of the Regulatory Committee is to protect the public. Having considered and applied the appropriate guidelines, the following question should be asked :

“Would I allow my daughter or son, granddaughter or grandson, spouse, mother or father, or any other person I care for or any vulnerable person I know, to get into a vehicle with this person alone?”

If the answer is yes, then a licence should normally be approved. If the Regulatory Committee has any doubts, then the licence must be refused, suspended or revoked. It is the responsibility of the applicant/licence holder to satisfy the Regulatory Committee.

Compliance with Conditions and requirements of Licensing Authority

The Regulatory Committee may take into account a person’s history whilst holding a licence, from this or any other authority. The Regulatory Committee may take into account, in deciding whether a person is a fit and proper person to hold (or to continue to hold) a licence, such matters as the record of complaints about them, also their compliance with Licence conditions and their willingness to co-operate with the reasonable requests of Licensing Officers.

Driving Offences – New Applicants

If an applicant has committed traffic offences this should not necessarily prevent them from proceeding with an application. However, the number, type and frequency of offences will be taken into account. In some cases it may be appropriate to issue a licence together with a strong warning as to future driving conduct. If a significant history of offences is disclosed, an application may be refused.

For information on death by careless or dangerous driving, please refer to the **Violence** section.

For information on insurance guidelines, see **Insurance Offences**

For alcohol and drug related offences see the relevant **Drunkenness** and **Drugs** sections.

Driving Offences

For a detailed list of offences that fall into this category, see Appendix 1.0 and 1.1

Any new applicant who has more than 6 penalty points on their driving licence should expect that their application will be heard at a hearing of the Council's Regulatory Committee. The Regulatory Committee will decide the application on its merits, and may:

- a) Grant the licence.
- b) Grant the licence and issue the applicant with a written warning
- c) Grant the licence and where the licence is for private hire, impose conditions, including requiring the applicant to attend a Driver Correction Training Course at the applicant's expense, within 2 months of their decision.
- d) Refuse the application.

Although the Regulatory Committee cannot impose conditions on a hackney carriage drivers licence, it can accept an undertaking that the applicant / licence holder will, for example, attend a Driver Correction Training Course at his/her expense, within 2 months of the Regulatory Committee's decision. Hackney carriage licence applicants/holders should consider offering appropriate undertakings to the Regulatory Committee where this may avoid their application being refused, or their licence being suspended or revoked.

A driver's licence will only be granted if the Regulatory Committee is satisfied that the applicant is a fit and proper person.

For any minor offences totalling 5 or fewer points on an applicant's driving licence, a licence may be granted together with a formal warning with regards to future conduct without the applicant being required to attend a hearing of the Regulatory Committee unless exceptional circumstances require this.

A licence may be granted if the delegated officer is satisfied that the applicant is considered a fit and proper person.

If the applicant has committed a major traffic offence within 2 years of the submission of his application, or has committed one or more major traffic offences, regardless of the time period, then a licence should not be granted until the applicant has completed a period of 2 years free from conviction.

Major and minor traffic offences are defined below at Appendix 1.0 and 1.1 respectively.

Medical Issues

If the applicant's driving licence has been revoked or refused on medical grounds by the DVLA within the last 5 years, or the applicant has received a conviction or caution for driving a vehicle after failing to notify the proper authority of a disability or made a false declaration about medical health, the application for a hackney carriage or private hire driver's licence will be refused until satisfactory medical proof of current fitness can be provided.

The onus is on the applicant to provide to the Licensing Authority with medical proof from their own GP/consultant at their own expense, which is to be brought to the Regulatory Committee hearing. The Regulatory Committee should consider issuing a licence if they are satisfied that the report shows a clean bill of health, and that the applicant is a fit person to recommence driving and is deemed to be of no threat to the public.

If the Regulatory Committee has doubts about an applicant's fitness, then the application should be adjourned or refused until further evidence is produced by the applicant to be able to satisfactorily prove their fitness.

Written Warnings

The Regulatory Committee or a Designated Officer may issue a written warning to licence holders where that person's conduct gives concern.

If an applicant has received a formal caution for a traffic offence, given the nature of the offence and the profession of the driver, they may be given a written warning as to their future conduct.

If the applicant has received 2 or more written warnings from the Licensing Authority and/or formal cautions within a period of 1 year, the person will be required to attend a Regulatory Committee Hearing where their licence may be suspended for a maximum of one week. Depending on the nature of the offences, the Regulatory Committee may require drivers to attend correction training or an advanced driving course.

Driving Offences – Existing Licence Holders

Private hire and hackney carriage drivers are considered professional drivers and must be aware of the safety of their passengers and the safety of their vehicles at **all** times. Any traffic offences may show a lack of responsibility whilst driving either due to the maintenance and safety of their vehicle or in the manner of their driving. The Regulatory Committee should consider what weight to apply to any mitigating factors.

Having committed traffic offences should not prevent a person from proceeding with a renewal of their licence. However, the number, type and frequency of offences will be taken into account. In some cases it may be appropriate to issue a licence together with a strong written warning as to their future conduct.

For information on death by careless or dangerous driving, please refer to the **Violence** section.

For information on insurance guidelines, see **Insurance Offences**

For guidance information on alcohol and drug related offences see the relevant **Drunkenness** and **Drugs** sections.

Driving Offences

For a detailed list of offences that fall into this category, see Appendix 1.0 and 1.1

Any existing licence holder who has 6 points or more on their driving licence will be expected to go before a hearing of the Regulatory Committee. The Regulatory Committee may:

- a) Take no further action
- b) Give a written warning
- c) Add a condition to the Licence of a private hire driver, including where appropriate to require the driver to attend a Driver Correction Training Course at the driver's expense, within 2 months of their decision.
- d) Suspend the Licence for a period of up to one month
- e) Revoke the licence.

Although the Regulatory Committee cannot impose conditions on a hackney carriage driver's licence, it can accept an undertaking that the applicant/licence holder will, for example, attend a Driver Correction Training Course at his/her expense, within 2 months of the Regulatory Committee's decision. Hackney carriage licence applicants/holders should consider offering appropriate undertakings to the Regulatory Committee where this may avoid their application being refused, or their licence being suspended or revoked.

Medical Issues

If the person's driving licence has been revoked or refused on medical grounds by the DVLA within the last 5 years or the applicant has received a conviction or caution for driving a vehicle after failing to notify the proper authority of a disability or a false declaration about fitness and medical health, the application to renew a hackney carriage or private hire driver's licence should be refused until satisfactory medical proof of current fitness has been provided.

The onus is on the applicant to provide appropriate medical evidence from their GP /consultant at their own expense, which is to be brought to the Regulatory Committee hearing. The Regulatory Committee should consider renewing a licence only if they are satisfied that the report shows that the applicant is a fit person to recommence driving and is deemed to be of no threat to the public.

If the Regulatory Committee have doubts over the applicant's fitness, then the application should be refused until further evidence can be produced by the applicant to satisfactorily prove their fitness to drive.

Written Warnings

The Regulatory Committee or a Designated Officer may issue a written warning to licence holders where that person's conduct gives concern.

If an applicant has received a formal caution for a traffic offence, given the nature of the offence and the profession of the driver, they may be given a written warning as to their future conduct.

If the applicant has received 2 or more written warnings from the Licensing Authority and/or formal cautions within a period of 1 year, the person will be required to attend a Regulatory Committee Hearing where their licence may be suspended for a maximum of one week. Depending on the nature of the offences, the Regulatory Committee may require drivers to attend correction training or an advanced driving course.

Motor Insurance Offences

The Council takes a serious view of motor insurance offences. An isolated incident in the past should not necessarily bar a new applicant from being issued a licence, but they may be required to attend a Regulatory Committee hearing.

More than one conviction or caution for these offences should raise serious doubts as to an applicant's suitability to hold a hackney carriage or private hire licence. In this instance, at least 3 years should elapse (after restoration of the DVLA driving licence) before an applicant, who has been disqualified from driving for insurance offences, is considered for a hackney carriage or private hire licence.

Should that person not have been disqualified, at least three years should elapse from the date of the last conviction.

The safety of the public is the Council's paramount concern, and the Regulatory Committee will not tolerate existing drivers committing motor insurance offences. Existing licence holders who commit motor insurance offences should expect to be called to a hearing before the Regulatory Committee, where their licence should be revoked except in exceptional circumstances.

Where a hearing of the Regulatory Committee takes place, they may:

- a) Take no further action
- b) Give a written warning
- c) Add a condition to the Licence of a private hire driver
- d) Suspend the Licence for a period of up to one month
- e) Revoke the licence.

Sexual Offences

As hackney carriage and private hire drivers often carry unaccompanied passengers, any new applicants with convictions, or cautions, for any sexual offence, should expect their application to be heard at a hearing of the Regulatory Committee. New applicants will normally be refused a licence until they can show a substantial period (usually between 7 and 12 years) free from any conviction.

Any current licence holder, who commits any sexual offence, will be expected to attend a hearing of the Regulatory Committee. Depending on the nature of the conviction, the Regulatory Committee may:

- a) Take no further action
- b) Issue a written warning
- c) Add a condition to the Licence of a private hire driver
- d) Suspend the Licence for up to one month
- e) Revoke the Licence

Licence holders should also be aware that if the Licensing Authority receives notification from the police that a driver is being investigated for a serious sexual offence, their licence may be suspended immediately without a hearing before the Regulatory Committee. An allegation of a sexual offence whilst a driver is 'on duty', and/or which involves an abuse of a position of trust will usually be considered serious.

Typical offences including attempted offences:

- Rape – Licence should be revoked/refused.
- Indecent Assault – Licence should be revoked/refused until a period of 10 years after conviction.
- Gross Indecency – Licence should be revoked/ refused until a period of 8 years after conviction.
- Indecent Assault on a Child – Licence should be revoked/ refused until a period of 12 years after conviction.

Each case will be decided on its merits, and the Regulatory Committee should have regard to the circumstances of the offence as appropriate.

Drunkenness

This section has been divided into two separate sections; drink driving with a motor vehicle and drunkenness without a motor vehicle. Both sections apply to new applicants as well as existing licence holders.

(a) With a Motor Vehicle

The Council views driving or being in charge of a vehicle whilst under the influence of alcohol as a serious offence.

The offences that apply to this section include:

- Driving or attempting to drive with alcohol above the limit
- In charge of a vehicle, driving or attempting to drive when unfit through drink
- Refusal to provide a specimen of breath or blood for analysis
- Aiding and abetting another in the commission of such an offence

Although an isolated incident will not necessarily debar an applicant, a single conviction for any drink driving offence will normally require a period of 2 years to elapse after the date of conviction or the restoration of their DVLA licence, whichever is the later, before being considered for a licence.

More than one incident should raise grave doubts as to future behaviour and the applicant's fitness to hold a licence.

Existing Drivers

The safety of the public is the Council's paramount concern, and the Regulatory Committee will not tolerate existing drivers committing drink driving offences particularly if committed whilst 'on duty'. Existing licence holders who commit drink driving offences should expect to be called to a hearing before the Regulatory Committee, where their licence should be revoked except in exceptional circumstances.

If a driver has been disqualified from driving by a court for offences relating to drink driving, then any application to renew a hackney carriage or private hire vehicle driver's licence should not be considered until a period of 2 years has elapsed, (after restoration of their DVLA licence).

(b) Without a Motor Vehicle

An isolated incident of drunkenness not associated with a motor vehicle will not necessarily result in an application not being granted, however any new applicant or current licensee should expect to attend a hearing of the Regulatory Committee.

- One or 2 convictions, cautions and/or fixed penalty notices for disorder and/or drunkenness not confined to a year should result in a written warning as to future conduct.
- 2 convictions, caution and/or fixed penalty notices for disorder for drunkenness within a year, a current licence should be suspended for a period of up to 2 weeks. Where the Licensing Authority receives a new application in these circumstances, it may be refused, or granted with a written warning.

- 3 or more convictions, cautions and/or fixed penalty notices for disorder for drunkenness, any current licence will normally be revoked except in exceptional circumstances. Any new application should be refused until a period of 12 months free of convictions has elapsed.

In all cases

More than one conviction, caution and/or fixed penalty notice for disorder and/or drunkenness or refusal to provide a specimen may indicate a medical problem and the applicant/licence holder may be asked to submit to a medical examination by a medical practitioner nominated by the Council at the applicant's/licence holder's own expense. If the results of the examination show the person to be an alcoholic, a period of 5 years should elapse after treatment is complete before a further application is considered.

Where a hearing of the Regulatory Committee takes place, it may:

- a) Take no further action
- b) Give a written warning
- c) Add a condition to the Licence of a private hire driver
- d) Suspend the Licence for a period of up to one month
- e) Revoke the licence

Drug Offences

A serious view is taken of any drug related offence. An applicant who has committed a drug related offence (including the supply or trafficking of drugs) should be required to show a period of at least three years free of convictions, before an application is considered.

If the applicant was required to undergo detoxification treatment, a period of five years free from conviction is required after the end of treatment. More than one conviction and/or caution for a drugs related offence should prevent a successful application for at least seven years from the date of conviction. In both instances, before a further application is considered, a specialist medical examination will be required with negative urine screen for drugs or abuse.

Any new applicant who has served a custodial sentence for a period of five years or more for supplying controlled drugs, and has submitted their application within a period of five years from the date of release, should not be considered for a licence.

The safety of the public is the Council's paramount concern. The Regulatory Committee will not tolerate existing drivers committing any drug-related offence. Existing licence holders who commit drug related offences should expect to be called to a hearing before the Regulatory Committee, where their licence should be revoked except in exceptional circumstances. At least seven years should elapse from conviction before a new application by that person will be considered.

Any applicant new or existing who has committed an offence relating to drugs will be expected to attend a Regulatory Committee hearing. The course of action the Committee will take will depend on the nature of the incident and the classification of the drugs.

The Regulatory Committee may -

- a) Take no further action
- b) Issue a written warning
- c) Add a condition to the Licence of a private hire driver
- d) Suspend the Licence for up to one month
- e) Revoke the Licence

Violence

As hackney carriage and private hire drivers maintain close contact with the public, any previous convictions and/or cautions for violence will be taken seriously by the Regulatory Committee.

- (a) An application will be refused or existing licence revoked where the applicant has received a conviction for any of the following offences, regardless of the period of time lapsed after the date of conviction:
- Murder and attempted murder
 - Manslaughter
 - Causing death by reckless driving, including:
 - Causing death by careless driving when unfit through drugs
 - Causing death by careless driving when unfit through drink
 - Causing death by careless driving with alcohol level above the limit
 - Causing death by careless driving then failing to supply a specimen for analysis
 - Manslaughter or culpable homicide while driving a vehicle
 - Causing death by dangerous driving
- (b) An application should be refused or existing licence revoked where the applicant has a conviction for one of the following offences **and** where the conviction is **less than 10 years** prior to the date of application:
- Affray
 - Arson
 - Assault on the police
 - Assault with intent to resist arrest
 - Malicious wounding or grievous bodily harm
 - Obstruction
 - Possession of offensive weapon
 - Possession of firearm
 - Resisting arrest
 - Riot
 - Violent disorder
- (c) An application should be refused or existing licence revoked where the applicant has a conviction for one of the following offences **and** where the conviction is **less than 8 years** prior to the date of application:
- Robbery
 - s.4 Public Order Act 1986 offence (fear or provocation of violence)
 - s.4A Public Order Act 1986 offence (intentional harassment, alarm or distress)
 - Unlawful wounding or causing grievous bodily harm
 - Unlawful wounding or causing grievous bodily harm with intent

- (d) An application should be refused or existing licence revoked where the applicant has a conviction for one of the following offences **and** where a conviction is **less than 5 years** prior to the date of application:
- Assault occasioning actual bodily harm
 - Common assault
 - Criminal damage with a value of £500 or more

More than one offence

The above guidelines are applicable to new applicants and existing licence holders who have committed one offence.

If a new applicant or existing licence holder has committed two or more violence related offences, the licence should normally be revoked or refused.

If an applicant has a history of violence (three or more offences of any type of violence) their application will be refused, or in the case of an existing driver their licence will be revoked.

Possession of a Weapon

If a new applicant or existing licence holder has committed an offence of possession of a weapon (including an air weapon or imitation firearm) in a public place or any other weapon-related offence, this should cause serious concern as to whether this person is fit and proper to hold such a licence.

If a new applicant or existing licence holder has committed an offence of wielding or using a weapon, then an application should normally be refused or an existing licence revoked.

Any person who has committed any of the above offences will be required to attend a Regulatory Committee hearing.

Where a hearing of the Regulatory Committee takes place, they may –

- a) Take no further action
- b) Issue a written warning
- c) Add a condition to the Licence of a private hire driver
- d) Suspend the Licence for up to one month
- e) Revoke the Licence

A suspension of more than two weeks would be appropriate in only exceptional circumstances.

Dishonesty

Drivers of hackney carriage and private hire vehicles are expected to be persons of trust. It is comparatively easy for a dishonest driver to defraud the public, for example, by demanding more than the legal fare or giving incorrect change. Overseas visitors can be confused by the change in currency and become “fair game” for an unscrupulous driver. Similarly, any customer can be defrauded by a driver taking them by any other than the shortest route or by them retaining any lost property left in their vehicle.

Members of the public entrust themselves to the care of drivers both for their own safety and for fair dealing. For these reasons a serious view is taken of any offences involving dishonesty.

A new application will normally be refused or an existing licence revoked where a person has committed an offence of:

- Theft
- Burglary
- Fraud
- Benefit fraud
- Handling or receiving stolen goods
- Forgery
- Conspiracy to defraud
- Obtaining money property and/or services by deception

Any person who has committed any of the above offences will be required to attend a Regulatory Committee hearing.

Where a hearing of the Regulatory Committee takes place, they may –

- a) Take no further action
- b) Issue a written warning
- c) Add a condition to the Licence of a private hire driver
- d) Suspend the Licence for up to one month
- e) Revoke the Licence

A suspension of more than two weeks would be appropriate in only exceptional circumstances.

Complaints Against Drivers

Complaints are frequently made against hackney carriage and private hire drivers. Such complaints include refusal to assist a disabled passenger, use of abusive language or refusal to accept a fare. Such complaints should be investigated and dealt with first by the Licensing Officer, and if the complaint is serious enough then it should be forwarded to the Regulatory Committee.

The Regulatory Committee should consider the history of all complaints made against the driver to assess any patterns. If a pattern is identified, then the Regulatory Committee should consider whether the driver is a fit and proper person to hold such a licence.

The Regulatory Committee will usually expect a complainant as well as the licence holder to attend a hearing so that both sides of the incident can be heard. If the complainant is not willing or able to attend the hearing then the complaint can still be heard. In these circumstances, the Regulatory Committee must attach due weight to the evidence.

The Regulatory Committee should bear in mind that although it is considering the conduct of licence holders, it must take into account the circumstances surrounding that conduct, and the realities of the profession, where drivers are often the subject of unwarranted abuse from members of the public.

Where the Regulatory Committee considers it appropriate, in response to a complaint it may –

- a) Take no further action
- b) Issue a written warning
- c) Add a condition to the Licence of a private hire driver such as to attend a Driver Correction Training Court at his / her expense within two months of the Regulatory Committee's decision
- d) Suspend the Licence for up to one month
- e) Revoke the Licence

Although the Regulatory Committee cannot impose conditions on a hackney carriage licence, it can accept an undertaking that the applicant/licence holder will, for instance, attend a Driver Correction Training Course at his/her expense, within two months of the Regulatory Committee's decision. Hackney carriage licence applicants/holders should consider offering appropriate undertakings to the Regulatory Committee where this may avoid their application being refused, or their licence being suspended or revoked.

Conclusion

Any applicant having a previous or current conviction should not necessarily be prevented from obtaining a hackney carriage or private hire licence. However, there are certain offences that are considered so serious that they will usually prevent a person obtaining a licence. It is this Council's policy to consider the safety, protection and well being of the general public by ensuring all licensed drivers are in good health, are safe and competent drivers and are able to maintain their vehicles to an acceptable standard.

A person who has committed an offence and who is made to wait for a rehabilitation period to lapse prior to their application being accepted, is more likely to value their licence and act accordingly.

The Regulatory Committee should bear in mind that the purpose of the actions it takes should not be to punish or financially penalise licence holders, but rather to ensure public safety.

It is hoped that applicants and licence holders appreciate that the Regulatory Committee's primary aim is to ensure public safety. By following these guidelines, the Regulatory Committee is seeking to maintain the high standard of quality of hackney carriage and private hire drivers, operators and proprietors in the Borough, which in turn maintains the good reputation of the taxi industry in Gateshead, and the high quality of service to the travelling public.

Any applicant refused a licence on the grounds that the Regulatory Committee is not satisfied he/she is a fit and proper person to hold such a licence, or who has had their licence suspended, revoked or had a condition attached with which they disagree has a right of appeal by way of written complaint, to the magistrates' court within 21 days of the notice of decision.

Appendices

Appendix 1.0

Minor Traffic Offences

- 1.1 Driving whilst causing or is likely to cause danger by reason of use of unsuitable vehicle or using vehicle with parts or accessories in a dangerous condition (excluding brakes, tyres and steering wheel)
- 1.2 Causing or likely to cause danger by reason of load or passengers
- 1.3 All seatbelt offences
- 1.4 Leaving a vehicle in dangerous position
- 1.5 Driving without a licence
- 1.6 Unlawful pillion riding
- 1.7 Play street offences
- 1.8 Driving with uncorrected defective eyesight or refusing to submit to a test
- 1.9 Driving with uncorrected defective eyesight
- 1.10 Failure to give information as to identity of driver
- 1.11 Exceeding any and all speed limits
- 1.12 Failure to comply with traffic signals and directions
- 1.13 Using a vehicle without a current MOT certificate

Appendix 1.1

Major Traffic Offences

- 2.1 Driving otherwise than in accordance with a licence
- 2.2 Driving without reasonable consideration for other road users
- 2.3 Dangerous driving
- 2.4 Careless driving
- 2.5 Driving whilst disqualified by order of court
- 2.6 Failing to stop after an accident
- 2.7 Failing to report an accident
- 2.8 Using a hand held mobile telephone whilst driving
- 2.9 Using a vehicle with defective tyres
- 2.10 Using a vehicle with defective steering
- 2.11 Using a vehicle with defective brakes
- 2.12 Motor racing

