

Report of Head of Licensing and Registration

Report to Licensing Committee

Date: 10 June 2014

Subject: Convictions criteria – Hackney Carriage (HCD) and Private Hire Drivers (PHD), Private Hire Operators (PHO) and Hackney Carriage Proprietors (HC) - draft policy and conditions proposals following consultation.

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

Summary of main issues

1. Before granting a PHD, PHO, HCD and HCP licence the Council has a statutory obligation to ensure the applicant is a 'fit and proper' person. That requirement remains with the Council throughout the lifetime of a licence and at the point of renewal.
2. The Council has an existing policy dealing with various aspects of the 'fit and proper' issues, a key part being the 'convictions criteria'; which describes and tries to assess the potential risk to the public and the Council by categorising types of crime and driving convictions.
3. The 'convictions criteria' and driving convictions part of the policy is of long standing and is due for a comprehensive review, not only as a policy review requirement but to bring the policy into line with the new Acts of Parliament and to be more relevant to the dangers and risks facing the public and the Council in today's society.
4. The principles of the existing policy have stood the test of time and have been recognised and appreciated in the Magistrates and Crown Courts as good practice and a clear decision making framework. It also enables an audit trail of the decision making process. It is not intended to change the format but to refresh the information and format, enabling decision makers to deal more effectively with public safety issues in respect of criminal activity and driver behaviour that have become more prevalent.

5. The report offers options for formal driver 'life skills training' in place of sanction in some cases but also seeks to recognise that consistent bad driver behaviour and disqualification from driving reaches a point of unacceptability. Similarly the report asks Members to recognise that offending committed during the course of licensed work should attract greater sanction to those who later reapply than do standard convictions.
6. The report was previously released by Licensing Committee Member on 14 January 2014 for full public and trade consultation. There has been a large response which, for ease of reference is presented in chart form with selected examples which give a strong indication of the overall view of the policy proposals.

Recommendations

7. That Members consider and approve in principle the amendments to the policy and new policy proposals in respect of the 'convictions criteria' and direct Officers to prepare a report for the consideration of the Executive.
8. That Members consider and approve in principle the amendments to policy and new policy proposals in respect of 'motoring convictions generally and disqualification from driving' and direct Officers to prepare a report for the consideration of the Executive.

Purpose of this report

- 1.1 To identify to Members the current relevant legislation and the public safety benefits in having a clear and defensible policy that meets the statutory obligation for protecting the public and which sets out clear public information and a decision making criteria and process for Members, Officers and the Courts.
- 1.2 It is not the intention to move away from the existing decision making framework within the 'convictions criteria' but instead to make it more relevant to today's public safety risks and changes in legislation. The recommended changes to some types of offences are not only related to legal or public expectations but in some cases Officer experience.
- 1.3 Criminal convictions are dealt with quite distinctly from 'driving convictions' and it is hoped that a simplified way of dealing with driving convictions will result in improved understanding to all, consistency in decision making and improved driving skills.

2 Background information

- 2.1 Prior to granting a PHD, PHO, HCD and HCP licence the Council is obliged by law to ensure the applicant is a 'fit and proper' person. That requirement remains with the Council throughout the lifetime of a licence and at the point of renewal.
- 2.2 Decision making needs to be justified and consistent and the existing policy has met both of those requirements having been tested in the Courts on many occasions. Time has however brought changes to the law and also the requirement for local Authorities to be far more alert to criminal trends and public protection. Crime and safety are issues of national and local importance and despite falling levels of recorded crime in recent years, it remains a primary concern for the people of Leeds
- 2.3 Crime affects the lives of everybody - residents, businesses, visitors, students, commuters and investors alike. Reducing crime and disorder is a key element in improving the quality of life for the citizens of Leeds.

Leeds City council has adopted the essence of partnership working and expresses its values as follows:

The Safer Leeds Partnership is our vision is for people to be able to live without fear for their own safety, or the safety of others. Our overall aim is to secure sustainable reductions in crime and disorder, and to address fear of crime in the Leeds district.

Community Safety Partnership's (CSPs) were set up under Sections 5-7 of the Crime & Disorder Act 1998

CSPs are made up of representatives from the 'responsible authorities', which are the:

- *police*

- *local authorities*
- *fire and rescue authorities*
- *probation service*
- *health*

The responsible authorities work together to protect their local communities from crime and to help people feel safer. They work out how to deal with local issues like antisocial behaviour, drug or alcohol misuse and reoffending. They annually assess local crime priorities and consult partners and the local community about how to deal with them.

This partnership working is the essence of this report and is essential to contributing to the wider community safety.

- 2.4 Some examples of change would be grooming and trafficking of women; the extent of paedophilia; race hate crime; 'staged road traffic accidents'; sophisticated criminal gangs involved in drugs supply; money laundering with organised criminal gangs needing more and more credible 'fronts' to facilitate or mask their crimes.
- 2.5 A local Authority must have a robust policy in place to ensure the statutory requirement of 'fit and proper' assessment is met, and whilst this is the same across all of the proposed categories set out later in the report Members may feel there is absolutely no room for compromise in the area of sexual offending and relevant information disclosed to the Authority by the Police. Members will be aware that the Council's Safeguarding Policies for children and vulnerable adults are explicit in respect of responsibilities. Similarly race hate crime needs to be recognised as significantly relevant to the licensed services. Licence holders should not be considered as somewhat remote risks to those issues when considering this policy.
- 2.6 A public risk policy also needs to assess driver behaviours and this is an area in need of decision making clarification, possibly utilising training development. Anecdotally, Members will have heard of examples of poor driving standards and at other times complaints about individual examples of thoughtless or deliberately poor driving by some licence holders. Whilst there might be many expressed frustrations at some licensed drivers the context has to be that in reality it is probably a minority of drivers.
- 2.7 As a point of clarification, there are other areas which contribute to the 'fit and proper' test but are not part of this report. Those other areas have been relatively recently been approved by the Licensing Committee e.g. DSA test, English literacy and numeracy screening, medicals. This report and its recommendations are complementary to those safeguards.

3 Main issues

3.1 Criminal convictions – general information.

3.2 In essence convictions and cautions are the same in respect of culpability, evidence and admission of guilt and this is recognised in the previous policy. The change proposals in this document make it clear that in whatever way a finding of criminal responsibility is recorded against an individual, the policy will allow discretion to be exercised in appropriate cases, as has been the case on numerous occasions with the existing policy. It brings clarity around the issue that the Council can consider not just convictions but all of the Police, other agency and Courts disposal outcomes within the convictions criteria. It also recognises that such criteria cannot accommodate every type of adverse behaviour. In such cases the decision path might be “or any other reasonable cause”, in accordance with primary legislation. Discretion then follows on from that principle with appropriate weighting applied to individual cases.

3.3 Recognition of terms

3.4 ‘Conviction’

3.5 The term conviction includes the whole range of disposal outcomes of the commission of a criminal offence; those related matters which have been successfully pursued through the civil courts and those related licensing decisions which have been determined in the Courts in the favour of the local Authority.

3.6 Since the adoption of the original ‘convictions criteria’ there has been significant reshaping of the criminal law to combat the structures of organised crime and also deal more effectively with a range of issues. Slightly down the scale local crime groups can be sophisticated and confident. Easy access to obtaining a Private Hire driver, Private Hire Operator, Hackney carriage driver or Hackney Carriage proprietor licence provides an unbelievable opportunity for masking criminal activity and is a significant concern for the Police.

3.7 It can be a difficult message for Members and Officers to give to applicants, or licence holders affected by the convictions criteria when licences are refused or revoked, but the statutory guidance is quite clear; when making public safety decisions the financial impact on an individual is not the determining fact to take into account, and the public safety risk for all the citizens of Leeds is the key assessment.

The proposed convictions criteria tables are at **Appendix 1**. The proposals to adjust the conviction criteria is based upon:

- The public expectation of safety and control of risk with the most serious types of crime and sexual offending (particularly category 1).
- Reducing the risk potentially caused by serious criminal offending (particularly category 2).
- The Council can demonstrate its commitment to dealing with race/religious hate crime, gender/sexual orientation and disability offending (category 3).
- Recognition of the opportunities for criminals by being licensed. (particularly category 4).

- The Council needs to contribute to crime partnerships and safety groups to reduce the risk of crime (category 5).
- The Councils obligations to Safeguard Children and vulnerable adults.
- Significant new types of criminal networks are now more recognisable to society.
- Sentencing powers of Courts have increased in some areas recognising the relevance and seriousness of that type of offending.
- The need to refresh and update the policy to today's environment.
- Recognising that some types of crime have undertaken such criminal pre-planning that having trust and being able to professionally interact with them is barely viable.

Reproduced below is an extract from HM Government Serious and Organised Crime - reducing and preventing crime policy. This extract is included in the report to enable Members to more easily visualise the potential links to the licensed trades and add weight to the proposed policy changes later in the report.

“Serious and organised crime is a threat to our national security. It costs the UK at least £24 billion each year. It includes drugs trafficking, human trafficking, organised illegal immigration, high value fraud, counterfeiting, organised acquisitive crimes and cyber crime.

Police and law enforcement agencies estimate that there are around 5,500 organised crime groups operating against the UK, involving around 37,000 individuals.

The new serious and organised crime strategy is based around 4 areas of work:

- *pursue: prosecuting and disrupting people engaged in serious and organised crime*
- *prevent: preventing people from engaging in this activity*
- *protect: increasing protection against serious and organised crime*
- *prepare: reducing the impact of serious and organised crime*

The immediate priority is to prosecute and relentlessly disrupt organised criminals to reduce the threat they pose.”

It is proposed to members that licensing policy should positively contribute to the national and local measures.

3.8 Notable additions to the convictions criteria

Common Assault with the statutory aggravating features of being motivated by, or demonstrating, hostility to the victim based on his or her sexual orientation or disability (or presumed sexual orientation or disability). – to Category 3

Offences under Protection from Harassment Act 1997, sections 1 and 2 to Category 5;

Offences of stalking – (sections 2a, 4, 4a) – to Category 3

Money Laundering – to category 4

The re-categorised table of sexual offences appears at **Appendix 2**.

The re-categorised table of violence offences appears at **Appendix 3**.

The re-categorised table of dishonesty offences appears at **Appendix 4**.

The re-categorised table of drugs offences appears at **Appendix 5**.

The categorised table of race related offences appears at **Appendix 6**.

3.9 For easier policy reference the crime categories have been structured as follows, accompanied by a policy statement.

Change proposal

Category 1 – The most serious types of crime often with sentences of life imprisonment.

For example: Murder manslaughter, grievous bodily harm/wounding, section 18 OAP Act kidnapping, false imprisonment, arson and convictions around sexual offending.

It would be only the most exceptional of circumstances that the grant of a licence would be considered for any of these types of convictions. The minimum period of time to have elapsed would generally be **10 years** from the date of conviction, final release or the end date of a suspended prison sentence. This would normally be the minimum period and there may be circumstances where the Council would continue to resist an application. It would be only in the most exceptional of circumstances that the grant of a licence would be considered for those types of convictions outside of the convictions criteria rehabilitation period.

Sexual Offences – additional information

The current 'convictions criteria' identifies the very real concerns that existed in the period around 2000 when a series of rapes and sexual assaults took place within the city by bogus 'licensed drivers'. Events over recent years give support to the proposals in this part of the policy in respect of the dangers of sexual offences being committed within the licensed trade, that view being drawn from

the national picture of notable criminal cases and also local experience of recorded and proven complaints.

Members will be all too aware of the current issues around trafficking of women, grooming children, paedophilia and sexual exploitation. Much of the terminology has changed and certain types of offences can equally be committed against a man as they can against a woman. The critical issue is that this is a very real threat which rises above all of those other difficult messages and conflicts when dealing with constituents.

Members are reminded of the Councils obligation to safeguarding children and vulnerable adults and how potential access to the vulnerable can be gained as a licence holder through the Councils and transport contracts.

That responsibility is reproduced as follows:

Leeds City Council has both a moral and legal obligation to ensure the duty of care for both children and vulnerable adults across all of its services. This cannot be achieved by any single service or agency. Safeguarding is ultimately the responsibility of all of us and depends on the everyday vigilance of staff who play a part in the lives of children or vulnerable adults.

The links between different types of offending in this category may not always appear immediately evident but in recognising the potential risk for involvement in increasingly serious sexually motivated offending enables a strong policy to be introduced.

The decision making framework can to some extent be de-stabilised by those licensed drivers who do not report convictions in line with the condition upon their licence or make a false declaration at the time of renewal. It can be the case that the criminal offence in question is out of the convictions criteria by the time it is uncovered. By being dishonest the licence holder has evaded the best intentions of the policy.

Change proposal

Members may feel that in such circumstances that the conviction should still be seen as being in breach of the policy and that the 'start date' would become effective from the date the Council first became aware.

Regulated and Controlled Activities

Private hire or Hackney Carriage work might not be included in The Safeguarding Vulnerable Groups Act 2006 but Members will be aware of the types of contact that licensed drivers can have with children or vulnerable adults. The type of information held but not disclosed by relevant bodies including DBS can present difficulties in the decision making process. However, what is known is that an event has occurred and it has resulted in an individual being barred from working with such groups.

The activity concerned might cause concerns for the Council but it has little information to work on. However, the responsibility for demonstrating they are a

'fit and proper' person rests with the applicant and the change proposal below might seem the most appropriate way of overcoming the issues.

Change proposal

Where a person is barred from working with children or vulnerable adults the onus to provide all background information and the responsibility to provide additional information to satisfy the Council rests firmly with the applicant.

It would be only in the most exceptional of circumstances that a licence would be granted when such a barring from 'controlled or regulated activity is in place.

3.10 Change proposal

Category 2 – High level serious criminal offences usually associated with violence or high value crime.

For example, drugs supply/production, aggravated burglary, robbery, aggravated vehicle taking (causing death), blackmail and any other offence of dishonesty capable of attracting a term of imprisonment exceeding 10 years.

These are the next most serious types of crime for which significant custodial sentences are available, and, importantly to the Council, those which present significant risk to people or their property. The minimum period of time to have elapsed would be **8 years** from the date of conviction, final release or end date of a suspended prison sentence. This would normally be the minimum period and there may be circumstances where the Council would continue to resist an application. It would be only in the most exceptional of circumstances that the grant of a licence would be considered for those types of convictions outside of the convictions criteria rehabilitation period.

Drugs crime – additional information

When the Local Government (Miscellaneous Provisions) Act 1976 was created it did not define drugs as one of the three recognised types of conviction, most probably on the basis that criminal activity of organisations were not on the radar to the extent they are today and the issues around drug misuse were not as prevalent or as relevant to the licensed trades.

Drugs crime is a major feature of organised crime gangs and there is evidence to show that such organised criminal activity exists in areas of West Yorkshire and that licensed drivers have been involved in the ferrying of drugs, suppliers and drug users to 'supply points'. The existing convictions criteria recognises the dangers to an extent relevant at that time but again, time has moved on and Members may feel that the safeguarding issues and public safety sanction level should be set at a higher point. The basis is that trafficking of drugs now has an established association with the licensed trades and its consequential effects on the City's communities, the image of the city and the trades should be addressed within the licensing safety policy.

A licensed taxi or Private Hire driver is an ideal carrier for such activity, either in isolation or with affiliations to organised crime. The personal use of drugs is an

event that can overlap into driving time and Members may feel that risk should be minimised by these control measures on drug misuse.

3.11 Change proposal

Category 3 – Racially or religiously aggravated crime.

Some offences across a range of criminal convictions attract stronger sentences when the offence is racially motivated or the act is intended to stir up racial hatred or where there is possession of racially flammable material. Without minimising any crime of that nature, this category deals with the most serious crime in that offending profile. The minimum period of time to have elapsed would be **6 years** from the date of conviction, final release or end of a suspended prison sentence. It would be only in the most exceptional of circumstances that the grant of a licence would be considered for those types of convictions outside of the convictions criteria rehabilitation period.

Hate crime statistics

In September 2012, the Home Office published statistics on hate crimes recorded by the police in England and Wales for the first time. In 2011 to 2012, 43,748 hate crimes were recorded by the police, of which:

- 35,816 (82%) were race hate crimes
- 1,621 (4%) were religion hate crimes
- 4,252 (10%) were sexual orientation hate crimes
- 1,744 (4%) were disability hate crimes
- 315 (1%) were transgender hate crimes- ??? to follow.

3.12 Change proposal

Category 4 – High risk dishonesty crime to the public and the Council in granting/holding a licence.

For example: burglary dwelling, handling stolen goods, theft as employee, Perverting the course of justice, Perjury, Aggravated vehicle taking, those offences created by the Fraud Act of 2006 on the basis of the deliberate and planned elements of dishonesty, fraudulent use of motor vehicle documents or false declaration to obtain such.

The types of crime here are those which employment as a licensed driver would present very real opportunities for offending and are considered to be of substantial risk to the public or the Council or being able to have effective working relationships or trust with an individual. The minimum period of time to have elapsed would be **5 years** from the date of conviction, final release or end of suspended prison sentence. This would normally be the minimum period and there may be circumstances where the Council would continue to resist an application. It would be only in the most exceptional of circumstances that the

grant of a licence would be considered for those types of convictions outside of the convictions criteria rehabilitation period.

3.13 Change proposal

Drugs Misuse

In respect of 'possession of a controlled drug' there are two proposals; where there is an existing conviction for unlawful possession of a controlled drug that the period of rehabilitation be extended by one year to fall in line with the Category 3 offences on the basis that those who have a history of drug abuse are more sympathetic to others unlawful use and allows a more appropriate period of time to demonstrate 'distance' from drugs; it sends out a clear message that drugs and licensed drivers are not an acceptable mix and that the Council recognises the dangers of association between those who might be associated with drugs and illegal drugs activity.

- 3.14 Officers regularly see applications with two or more convictions for unlawful possession of drugs on Disclosure and Barring Service disclosures and the existing policy is felt to be inadequate in being able to deal effectively with that issue. An option available to Members is to build additional safeguards into the policy set out below.

3.15 Change proposal

- 3.16 Where there are two convictions for such an offence on a disclosure that the policy could be further strengthened reducing the risk to public safety by including a medical drugs test requirement prior to the approval of an application and at random times during the life time of a licence at the licence holders expense and in a manner prescribed by the Council. This would amount to not much more than three occasions in a rolling 12 months period and would cease after 5 years from the date of last conviction.

3.17 Change proposal

Where there is a third conviction for drugs possession that the last conviction be regarded as a category 2 matter from the date of last conviction and those timescales are adopted.

3.18 Change proposal

Category 5 – General Offences of dishonesty and violence

For example:- General cases of theft, 'shoplifting', stealing from motor vehicle, obtain money by deception, going equipped for crime, taking vehicle without consent/being carried on or in. Similarly the inclusion of the racially aggravated public order offence receives a significant upgrade from a 'points only' matter to a category 5 offence may be justified when one considers the benefits to community cohesion.

Those general crimes contained within the Theft Act 1968, and Theft Act 1978 along with those crimes associated with benefit fraud. The minimum period of

time to have elapsed would be **3 years** from the date of conviction, final release or end date of a suspended prison sentence.

Where there are other offences that have a 'Hate Crime' aggravating feature they will attract a longer period of rehabilitation in terms of this convictions criteria and move to a category 3 type of offence. 'Hate Crimes' are defined as any crimes that are targeted at a person because of hostility or prejudice towards that person's: disability, race or ethnicity, religion or belief, sexual orientation, transgender identity.

3.19 Acting as a licensed driver – increased tariff

Where an offence identified in the previous categories was committed whilst in a licensed vehicle or in the course of carrying out a service illegally or legally, this would be considered an aggravating factor and the conviction criteria rehabilitation period would attract an additional rehabilitation period of 50%. Where the Council is successful in defending a licensing decision to refuse an application, revoke or refuse to renew a licence where the information on which the decision was based can be appropriately linked to one of the categories of crime explained in this report it would then attract the same rehabilitation period as that category. In all other instances or in cases of doubt that part of the Local Government (Miscellaneous Provisions) Act 1976 'any other reasonable cause' should be used.

The above categories include attempts, incitement, aid and abet, counsel or procure or conspiracy to commit such an individual offence which can attract the same penalty.

3.20 Youth Justice Court sentences

Where a sentence imposed upon a child or young person is restricted by virtue of their age the policy will take account of the sentence that could have been imposed upon them as an adult. However, it is not intended to defeat the intentions of the Courts powers of sentencing of children and young persons in respect of lower level crime (category 5) and those matters will be weighted accordingly by discretion being appropriately applied.

3.21 Category 6 - Motoring convictions generally and disqualification from driving

The current policy guidelines are set out at **Appendix 7** which summarise the position in respect of motoring convictions.

As in the case of criminal convictions and the changing legislation the same applies with motoring convictions. This has proved to be one of the more difficult areas of decision making for a number of reasons including the areas of:-

- 'totting up' for varying periods of disqualification
- application of exceptional hardship pleas to the Court to avoid disqualification

- applications to the Court when a licence holder is nearing 9 points to voluntarily impose a short term discretionary disqualification
- failures to report convictions to the licensing section
- possession of more than one DVLA licence

3.22 EXPLAINING THE LAW

3.23 Totting up

A licence holder can be disqualified from driving for the accumulation of penalty points if they build up to, or exceed 12 points. On receiving 12 or more penalty points disqualification can be for:-

- 6 months if you get 12 penalty points or more within 3 years
- 12 months if you get a second disqualification within 3 years
- 2 years if you get a third disqualification

The legislation in respect of ‘new drivers’ is different in that if they receive 6 penalty points within two years of passing their test the licence is revoked by statute, it is not discretionary in the Magistrates Court.

There are of course more serious offences which carry long term disqualification periods or even imprisonment and that issue is addressed later in the report.

3.24 Exceptional hardship

Where a defendant accrues 12 or more penalty points in accordance with Section 35 of the Road Traffic Offenders Act 1988, the Court is bound to disqualify them from driving unless it can be proven that to do so would cause them “exceptional hardship”.

“Exceptional hardship” is a difficult term to qualify, because there is no strict definition of what the term means or which situations it will necessarily include. It should be noted, that exceptional hardship does truly mean exceptional and even arguing that you will lose your job as a result may not be a sufficient defence.

Typical arguments used to try and persuade the magistrates that exceptional hardship exists could be, for example that if they were disqualified they would lose their job, or if they are disabled or a disabled person is dependent on them for transport, or it would be difficult to visit vulnerable relatives, or there could be problems taking their children to some destination. It is also possible for the exceptional hardship to apply to someone else such as a partner, business partner, family, dependant relative etc.

Nationally this accounts for a significant number of exceptions to disqualification and does occur in respect of some Leeds licensed drivers. This brings into focus the conflict the Council has in ensuring it conforms to its statutory requirements in

respect of safety versus a Courts decision not to disqualify on the grounds of exceptional hardship.

The legal focus for the Council is solely in respect of safety and the Court considering an 'exceptional hardship' plea does **not** take account of safety concerns in such pleas, in law it can **only** assess the plea of exceptional hardship.

For clarity, to meet its legal obligations the Council must consider proportionate options for public safety which in law cannot take into account the exceptional hardship issue. Proposals are set out later in this report for Members to consider which try to bridge that difficult issue.

There are some newspaper extracts attached to illustrate the issues at a national level at **Appendix 8**.

Locally the issue of driver convictions and penalty point accumulation with existing licensed drivers is set out at **Appendix 9**.

3.25 Failure to report convictions

It is a regular occurrence that drivers do not report a conviction to the licensing office and in some cases do not report second or third convictions. It is not unusual for periods of disqualification not to be reported and then only come to light at the point of personal renewal. In effect some drivers have managed to circumvent the Council's safety policy.

3.26 More than one DVLA licence

There are a number of licensed drivers who have repeatedly lost their DVLA licence, and on occasions those licences have been produced at the point of renewal. The Police also encounter similar incidents of licences being produced which do not carry the correct number of motoring convictions penalty points but they are able to relatively quickly identify the discrepancy in licence issue numbers.

The main issues in developing a new policy revolve around these issues and updating the explanations of offences covered under the minor motoring convictions following changes in the law.

The fact that someone has been disqualified or achieved 12 or more penalty points on the DVLA licence can demonstrate a continued pattern of poor driving standards or significant high risk driver offending.

Members might consider that one way of overcoming the conflicts which often arise in 'short term disqualifications' and 'exceptional hardship' cases might be to provide an alternative to sanction and to achieve safety requirements and improved driving standards by utilising driver training life skills development opportunities.

3.27 Length of time full DVLA licence held before granting

3.28 Change proposal

Members, having viewed the information at **Appendix 7** may wish to consider whether at the point of application, the PHD applicant must have held a full UK DVLA licence (or its recognised EU equivalent) for a period of not less than 3 years. (This is a statutory requirement, in effect, on HCD's who cannot hold a HCD licence until they are 21 years of age but one which still does not reflect their driving experience and 12 months in respect of private hire driver's).

3.29 Disqualified from driving

The Council currently uses the Driver Standards Agency (DSA) to provide a level of security to itself in assessing safety after disqualification but there is no long term driver development engagement in that test.

There are numerous opportunities for drivers to take improved driver skills training and preference would ideally be left as a driver choice. The key issue is the accredited testing of drivers which the Council can rely on as being conducted in a consistent and auditable way. There are several organisations carrying out this type of assessment and who are approved by the DSA; for example the Institute of Advanced Motorists and ROSPA (Royal Society for the Prevention of Accidents).

An explanation of an advance driver test is described below:-

"The advanced driving test is a special exam for motorists who can drive to a skill level substantially above average, and candidates who passed are called advanced drivers. It is available from several societies, including the Institute of Advanced Motorists, the Royal Society for the Prevention of Accidents and the Driving Instructors' Association DIAMOND Advanced Test.

Most candidates need advanced lessons before the advanced test. They may be provided by the examining body (as with IAM) or the candidate can pay their own instructor privately, as is UK standard practice for the initial driving test.

The test covers 30 to 40 miles (48 to 64 km) on different types of road, from town to country, city and country. Students will have trained in all areas and have to demonstrate the techniques and methods they've learned.

Advanced driving is described as "The ability to control the position and speed of the vehicle safely, systematically and smoothly using road and traffic conditions to make reasonable progress unobtrusively, with skill and responsibility. This requires a positive but courteous attitude and a high standard of driving competence based on concentration, effective all round observation, anticipation and planning co-ordinated with good handling skills. The vehicle should always be at the right place on the road at the right time, travelling at the right speed with the correct gear engaged and can always be stopped safely in the distance that can be seen to be clear."

Some insurers will offer reduced vehicle insurance premiums to holders of an advanced certificate."

It is to be emphasised, that such driver training or assessments could not be undertaken by Officers or the recommending of how training and assessing is undertaken nor would individual organisations. However, the standard to be attained would be in accordance with recognised outcomes of the accredited organisation and it is for individual drivers to choose their own preferred training provider and similarly with the test process.

Change proposal options

- When disqualified from driving under the 'totting up' procedures, a compulsory or discretionary period of disqualification, the current policy remains in place and when disqualified the local Authority licence will remain suspended until the driver has achieved a pass in 'life skills driving development' with a nationally recognised driving assessment programme.
- 12 or more points but not disqualified because of 'exceptional hardship' – requirement to undertake 'driving life skills' development and be successful in achieving that within 3 months of the Court decision or the Private Hire driver licence be suspended and not renewed until successful in a 'driving life skills' programme.

3.30 Failure to report a disqualification

Change proposal

Council PHD or HCD licence is suspended and remains so for 6 months and not re-issued until completion of driver life skills training, which is a process that does not reward circumventing the Council's licensing safety policy. Where false declarations are involved that might also be considered under the 'fit and proper' test.

3.31 Second period of disqualification

Change proposal

Private Hire driver licence is revoked and not considered for renewal for a minimum period of 12 months from the end of the disqualification period and a requirement to undertake driver life skills training.

3.32 Third period of disqualification

Change proposal

Private Hire driver licence is revoked and not considered for renewal for a minimum period of three years from the end of the disqualification period etc.

3.33 ROAD TRAFFIC OFFENCES SCHEDULE

The proposed schedule of offences covered under motoring convictions is at **Appendix 10**.

The proposed new profile of 'major motoring convictions' has been updated to include new legislation. The reference to the Rehabilitation of Offenders Act 1974 remains as useful guidance for time periods. The body of the original policy statement at **Appendix 7** would remain the same.

3.34 Change proposal

Where there is a second conviction of using a motor vehicle with defective brakes (CV10), defective tyres (CU30), defective steering (CU40), using a mobile phone whilst driving (CU80), no insurance (IN10) active on the DVLA licence (or a combination of these categories), the licence should be refused, suspended or revoked and not restored until the number of active occasions for those types of offence has reduced to one or less.

3.35 Change proposal

Where there is a conviction for Driving after making a false declaration about fitness (LC30), driving a vehicle having failed to notify a disability (LC40), Driving after a licence has been revoked or refused on medical grounds (LC50), driving with uncorrected defective eyesight (MS70), driving while disqualified by order of court (BA10) which occurred whilst a licensed driver it may be regarded as high risk to public safety and immediate suspension should be considered until all safety issues have been resolved and in any other case consideration should be given to revocation.

3.36 Change proposal

Where there is a second conviction for the types of offences immediately above or any failure to comply with any reasonable request from an Authorised Officer of the Council consideration should be given to the immediate suspension of the licence, its revocation, or a refusal to renew.

3.37 Legal implications

3.38 Members are aware that the basis of the existing policy had previously been approved and withstood legal challenge. The proposals follow the same principles in respect of criminal convictions and as such are not considered a medium to high risk for legal challenge. The process of appeal against the policy would be by way of Judicial Review but drivers can appeal decisions made on the policy on each occasion in the courts.

4 Corporate Considerations

4.1 Consultation and Engagement

- 4.1.1 Full consultation has taken place on the proposed policy and all of the trade and public have had the opportunity to contribute. The consultation responses are at Appendix 11.

4.2 Equality and Diversity / Cohesion and Integration

- 4.2.1 A full equality impact assessment has been completed and is available as a background document.

4.3 Council policies and City Priorities

- 4.3.2 The Taxi & Private Hire Licensing policies contribute to the following aims:

Best Council Plan 2013 -17

Towards being an Enterprising Council

Our Ambition and Approach

Our Ambition is for Leeds to be the best city and Leeds City Council to be the best council in the UK – fair, open and welcoming with an economy that is both prosperous and sustainable so all our communities are successful.

Our Approach is to adopt a new leadership style of civic enterprise, where the council becomes more enterprising, business and partners become more civic, and citizens become more actively engaged in the work of the city.

Our Best Council Outcomes

Make it easier for people to do business with us.

Our Best Council Objectives

Promoting sustainable and inclusive economic growth – improving the economic wellbeing of local people and businesses. With a focus on:

- Helping people into jobs,
- Boosting the local economy
- Generating income for the council

Ensuring high quality public services – improving quality, efficiency and involving people in shaping their city. With a focus on;

- Getting services right first time
- Improving customer satisfaction

- 4.3.2 The Taxi & Private Hire Licensing policies contribute to priorities:

- Reduce crime levels and their impact across Leeds
- Effectively tackle and reduce anti-social behaviour in communities

4.3.3 Safeguarding children and vulnerable adults:

Leeds City Council has both a moral and legal obligation to ensure the duty of care for both children and vulnerable adults across all of its services. This cannot be achieved by any single service or agency. Safeguarding is ultimately the responsibility of all of us and depends on the everyday vigilance of staff who play a part in the lives of children or vulnerable adults.

4.4 Resources and value for money

4.4.1 There are no anticipated additional on-costs other than those involved in obtaining legal advice.

4.5 Legal Implications, Access to Information and Call In

4.5.1 The statutory obligation of the Council is clear and set out at Section 51(1)(a) and (b) of the Local Government (Miscellaneous Provisions) Act 1976

Provided that a district council shall not grant a licence—

(a) unless they are satisfied that the applicant is a fit and proper person to hold a driver's licence; or

(b) to any person who has not for at least twelve months been authorised to drive a motor car, or is not at the date of the application for a driver's licence so authorised

4.5.2 The issues of suspension, revocation and refusal to renew follow on from that same requirement.

4.5.3 The existing policy has been seen as good practice and repeated in other Licensing areas. It has also stood repeat legal scrutiny in the Courts. The new proposals in this report need to be considered in the light of proportionality. Members might consider that the proposals for change are not a significant departure from the existing policy in so far as the changes are appropriate and necessary for maintaining public safety and not excessive in its overall effects.

4.5.4 The opportunities for challenge exist by way of judicial review of the policy or on the occasion of individual appeals against decisions made under the policy..

4.6 Risk Management

4.6.1 It is felt that change proposals do not present significant challenge risk to the Council.

5 Conclusions

5.1 Members may feel that the existing convictions criteria has served the Council and the public well and the change proposals are necessary updates which reflect changes in law, society, unacceptable patterns of driver behaviour and public safety risks and the changes are proportionate. It may also be felt that the public response raises concerns and expectations of the Council to protect the public. The report tries to balance all of these concerns.

6 Recommendations

- 6.1 That Members consider and approve in principle the amendments to the policy and new policy proposals in respect of the 'convictions criteria' and direct Officers to prepare a report for the consideration of the Executive
- 6.2 That Members consider and approve in principle the amendments to policy and new policy proposals in respect of 'motoring convictions generally and disqualification from driving' and direct Officers to prepare a report for the consideration of the Executive.

7 Background documents¹

Forgery & Counterfeiting Act 1981

Public Order Act 1986

Consumer Credit Act 1974

Sexual Offences Act 2003

Policing and Crime Act 2009

Road Traffic Offenders Act 1988

Criminal Justice & Immigration Act 2008

Indecent Displays (Control) Act 1981

Obscene Publication Act 1959

Protection of Children Act 1978

Crime and Disorder Act 1998

Child Abduction Act 1984

Offences Against the Person Act 1861

Police Act 1996

Theft Act 1968

Theft Act 1978

Public Order Act 1986

¹ The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.

Protection from Harassment Act 1997

Racial & Religious Hate Act 2006

Crime & Disorder Act 1998

Criminal Justice Act 1988

Local Government (Miscellaneous Provisions) Act 1976

Protection of Freedoms Act 2012

Licensing Committee report and minutes – 14 January 2014

Equality, Diversity, Cohesion and Integration Screening Document

Current convictions criteria - Points Criteria Tables

Table 1 - Dishonesty

Date Since Conviction Received	12mth ago	24mth ago	36mth ago	48mth ago	60mth ago	72mth ago	84mth ago	96mth ago	108mth ago	120mth ago
	(1 Year)	(2 Years)	(3 Years)	(4 Years)	(5 Years)	(6 Years)	(7 Years)	(8 Years)	(9 Years)	(10 Years)
Type of Offence	Points	Points	Points	Points	Points	Points	Points	Points	Points	Points
Dishonesty	Points are doubled if term of imprisonment served									
Theft	Refused	Refused	Refused	5	4	3	2	1	0	0
Theft – Shoplifting	Refused	Refused	Refused	5	4	3	2	1	0	0
Theft – Employee	Refused	Refused	Refused	5	5	4	3	2	1	0
Theft – From Vehicle	Refused	Refused	Refused	5	4	3	2	1	0	0
Burglary & Theft – Dwelling	Refused	Refused	Refused	Refused	8	6	4	2	0	0
Burglary & Theft – Non Dwelling	Refused	Refused	Refused	5	4	3	2	1	0	0
Burglary & Theft – Aggravated	Refused	Refused	Refused	Refused	Refused	Refused	8	6	4	0
Fraudulent Use	Refused	Refused	Refused	5	4	3	2	1	0	0
Handling	Refused	Refused	Refused	5	4	3	2	1	0	0
Receiving	Refused	Refused	Refused	5	4	3	2	1	0	0
Forgery	Refused	Refused	Refused	5	4	3	2	1	0	0
Conspiracy to Defraud	Refused	Refused	Refused	5	4	3	2	1	0	0
Obtain Money by Deception	Refused	Refused	Refused	5	4	3	2	1	0	0
Obtain Money by Forged Instrument	Refused	Refused	Refused	5	4	3	2	1	0	0
Deception	Refused	Refused	Refused	5	4	3	2	1	0	0
False Accounting	Refused	Refused	Refused	5	4	3	2	1	0	0
False Statement to Obtain Benefit	Refused	Refused	Refused	5	4	3	2	1	0	0
Going Equipped	Refused	Refused	Refused	5	4	3	2	1	0	0
Taking/Driving or Attempt to Steal Vehicle	Refused	Refused	Refused	5	4	3	2	1	0	0
Allow to be Carried in a Stolen Vehicle	Refused	Refused	Refused	5	4	3	2	1	0	0
Perverting Course of Justice	Refused	Refused	Refused	Refused	8	6	4	2	0	0

Table 2 - Drugs

Date Since Conviction Received	12mth ago	24mth ago	36mth ago	48mth ago	60mth ago	72mth ago	84mth ago	96mth ago	108mth ago	120mth ago
	(1 Year)	(2 Years)	(3 Years)	(4 Years)	(5 Years)	(6 Years)	(7 Years)	(8 Years)	(9 Years)	(10 Years)
Type of Offence	Points	Points	Points	Points	Points	Points	Points	Points	Points	Points
Drugs	Points are doubled if term of imprisonment served									
Possessing Controlled Drug	Refused	Refused	Refused	Refused	8	6	4	2	0	0
Possessing Controlled Drug with Intent to Supply	Refused	Refused	Refused	Refused	Refused	Refused	8	6	4	2
Producing Controlled Drug	Refused	Refused	Refused	Refused	8	6	4	2	0	0
Import Drugs	Refused	Refused	Refused	Refused	Refused	Refused	8	6	4	2

Appendix 1

Table 3 – Violence

Date Since Conviction Received	12mth ago (1 Year)	24mth ago (2 Years)	36mth ago (3 Years)	48mth ago (4 Years)	60mth ago (5 Years)	72mth ago (6 Years)	84mth ago (7 Years)	96mth ago (8 Years)	108mth ago (9 Years)	120mth ago (10 Years)
Type of Offence	Points	Points	Points	Points	Points	Points	Points	Points	Points	Points
VIOLENCE										
Points are Doubled if Term of Imprisonment Served										
Common Assault	Refused	Refused	Refused	5	4	3	2	1	0	0
Assault - Section 47	Refused	Refused	Refused	5	4	3	2	1	0	0
Grievous Bodily Harm - Section 20	Refused	Refused	Refused	Refused	Refused	Refused	8	6	4	2
Grievous Bodily Harm - Section 18	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	8	6
Assault Police	Refused	Refused	Refused	6	5	4	3	2	1	0
Affray	Refused	Refused	Refused	5	4	3	2	1	0	0
Riot	Refused	Refused	Refused	Refused	8	6	4	2	0	0
Murder	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused
Manslaughter	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused
Manslaughter or Culpable Homicide while Driving	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused
Using Threatening, Abusive Words or Behaviour	5	4	3	2	1	0	0	0	0	0
Breach of the Peace	3	2	1	0	0	0	0	0	0	0
Drunk and Disorderly	3	2	1	0	0	0	0	0	0	0
Common Assault - Aggravated	Refused	Refused	Refused	6	5	4	3	2	1	0
Obstruction	Refused	Refused	Refused	3	2	1	0	0	0	0
Robbery	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	8	6
Possess Offensive Weapon	Refused	Refused	Refused	5	4	3	2	1	0	0
Possess Firearm	Refused	Refused	Refused	5	4	3	2	1	0	0
Possess Firearm with intent	Refused	Refused	Refused	Refused	Refused	8	6	4	2	0
Criminal Damage	Refused	Refused	Refused	5	4	3	2	1	0	0
Violent Disorder	Refused	Refused	Refused	8	6	4	2	1	0	0
Resist Arrest	Refused	Refused	Refused	8	6	4	2	1	0	0
Arson	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused

Table 4 - Indecency

Date Since Conviction Received	12mth ago (1 Year)	24mth ago (2 Years)	36mth ago (3 Years)	48mth ago (4 Years)	60mth ago (5 Years)	72mth ago (6 Years)	84mth ago (7 Years)	96mth ago (8 Years)	108mth ago (9 Years)	120mth ago (10 Years)
Type of Offence	Points	Points	Points	Points	Points	Points	Points	Points	Points	Points
INDECENCY										
Points are Doubled if Term of Imprisonment Served										
Indecent Exposure	Refused	Refused	Refused	Refused	Refused	Refused	Refused	8	6	4
Indecent Exposure to the Annoyance of Residents	Refused	Refused	Refused	Refused	Refused	Refused	Refused	8	6	4
Indecent Exposure with intent to insult a Female	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	8	6
Unlawful Sexual Intercourse	Refused	Refused	Refused	Refused	Refused	Refused	8	6	4	2
Importuning	Refused	Refused	Refused	Refused	Refused	Refused	Refused	8	6	4
Gross Indecency with a Female	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused
Gross Indecency with a Male	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused
Indecent Assault on a Female	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	8	6
Indecent Assault on a Child Under 16 yrs	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused
Living Off Immoral Earnings	Refused	Refused	Refused	Refused	Refused	Refused	Refused	8	6	4
Prostitution	Refused	Refused	Refused	Refused	Refused	Refused	Refused	8	6	4
Possessing or Distributing Obscene Material	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	8	6
Buggery	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused
Rape	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused
Indecent or Nuisance Telephone Calls	Refused	Refused	Refused	Refused	Refused	5	4	3	2	1

Appendix 2

Category 2 offences										
Indecent exposure (Section 66)	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	8	6
Possession of extreme pornographic images	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	8	6
Displaying Pornographic images	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	8	6
Category 4										
Sexual activity in a public lavatory (Section 71)	Refused	Refused	Refused	Refused	Refused	8	6	4	2	0
Soliciting for prostitution (Section 51A)	Refused	Refused	Refused	Refused	Refused	8	6	4	2	0
Paying for sexual services – subjected to force (Section 53A)	Refused	Refused	Refused	Refused	Refused	8	6	4	2	0
Sending indecent or obscene articles by post	Refused	Refused	Refused	Refused	Refused	8	6	4	2	0

Appendix 3

Proposed Violence table

	1 year ago	2 years ago	3 years ago	4 years ago	5 years ago	6 years ago	7 years ago	8 years ago	9 years ago	10 years ago
Category 1 offences	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused
Murder	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused
Manslaughter	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused
Manslaughter or Culpable Homicide while driving	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused
Child abduction (by stranger) or those with aggravating features	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused
Arson	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused
Grievous Bodily Harm/Wounding Section 18	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused
Arson	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused
Possess a firearm with intent	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused
Category 2 offences										
Child abduction (none stranger)	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	8	6
Aggravated burglary	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	8	6
Robbery	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	8	6
Grievous Bodily Harm Section 20	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	8	6
Possess a firearm	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	8	6
Category 3										
Protection form Harassment – Section 4	Refused	Refused	Refused	Refused	Refused	Refused	8	6	4	2
Category 4										
Riot	Refused	Refused	Refused	Refused	Refused	8	6	4	2	0
Child abduction	Refused	Refused	Refused	Refused	Refused	8	6	4	2	0
Assault – Actual Bodily Harm Section 47	Refused	Refused	Refused	Refused	Refused	8	6	4	2	0
Stalking Section 2A	Refused	Refused	Refused	Refused	Refused	8	6	4	2	0
Stalking Section 4 & 4A	Refused	Refused	Refused	Refused	Refused	8	6	4	2	0
Category 5										
Violent disorder	Refused	Refused	Refused	8	6	4	2	0	0	0

Appendix 3

Affray	Refused	Refused	Refused	8	6	4	2	0	0	0
Fear of provocation of violence -	Refused	Refused	Refused	8	6	4	2	0	0	0
Intentional harassment, alarm or distress	Refused	Refused	Refused	8	6	4	2	0	0	0
Protection from Harassment Section 1	Refused	Refused	Refused	8	6	4	2	0	0	0
Common Assault	Refused	Refused	Refused	6	4	2	0	0	0	0
Assault Police	Refused	Refused	Refused	8	6	4	2	0	0	0
Obstruct Police	Refused	Refused	Refused	6	4	2	0	0	0	0
Possess offensive weapon	Refused	Refused	Refused	8	6	4	2	0	0	0
Criminal damage	Refused	Refused	Refused	8	6	4	2	0	0	0
Violent Disorder	Refused	Refused	Refused	8	6	4	2	0	0	0
Resist arrest	Refused	Refused	Refused	8	6	4	2	0	0	0
Harassment, alarm or distress Section 5 Public Order Act 1986	6	4	2	0	0	0	0	0	0	0
Breach of the Peace	4	3	2	1	0	0	0	0	0	0
Drunk and disorderly	6	4	2	0	0	0	0	0	0	0

Appendix 5

Proposed Drugs table

	1 year ago	2 years ago	3 years ago	4 years ago	5 years ago	6 years ago	7 years ago	8 years ago	9 years ago
Category 2 offences									
Possessing a Controlled Drug with Intent to Supply	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	8
Import Drugs	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	8
Producing Controlled Drug	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	8
Category 4									
Possessing Controlled Drug	Refused	Refused	Refused	Refused	Refused	8	6	4	2

Appendix 6

New Table – Racially motivated Offences

	1 year ago	2 years ago	3 years ago	4 years ago	5 years ago	6 years ago	7 years ago	8 years ago	9 years ago
Category 2 offences									
Assault occasioning Actual bodily harm	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	8
Common assault	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	8
Category 3									
Acts intended or likely to stir up racial hatred (Section 18 – 22 inclusive) Public Order Act 1986	Refused	Refused	Refused	Refused	Refused	Refused	6	4	2
Possession of Racially Inflammatory material (Section 23) Public Order Act 1986	Refused	Refused	Refused	Refused	Refused	Refused	6	4	2
Stirring up religious/racial hatred 2006 Act (all offences)	Refused	Refused	Refused	Refused	Refused	Refused	6	4	2

Current Policy guidelines on motoring convictions and disqualification.

Motoring convictions adopt different criteria dependant on the conviction(s) disclosed on the licence and are broken into two groups:

- (a) Minor road traffic offences
- (b) Major road traffic offences

Minor Road Traffic Offences:

Convictions for minor traffic offences should not prevent you from proceeding with an application or holding a licence. However, if the number of current points on your DVLA licence exceeds 12 points then your application will be refused or the current licence suspended or revoked.

A further application will not be approved until the DVLA licence demonstrates that the number of current points on the licence is below 13 points.

If a period of disqualification has been received on a licence, a period of 6 months must have elapsed from the restoration of the DVLA licence and be free from any other motoring conviction before an application is approved or a licence restored. Should the DVLA licence demonstrate a further conviction since the disqualification period, then a 6 months period must elapse from the date of the last conviction on the DVLA licence before an application is approved or a licence restored.

Major Road Traffic Offences:

An isolated conviction for major traffic offences should not prevent a person from proceeding with an application or holding a licence. However, if more than one conviction for an offence under this heading is shown to be current on the DVLA licence, then an application will be refused or the current licence suspended or revoked.

Where the DVLA licence demonstrates more than one conviction of this type a period of 6 months must have elapsed from the date of the last conviction on the DVLA licence before an application is approved or a licence restored.

If a period of disqualification has been received on a licence, a period of 6 months must have elapsed from the restoration of the DVLA licence and be free from any other motoring conviction before an application will be approved or a licence restored.

Should the DVLA licence demonstrate a further conviction since the disqualification period then a 6 months period must elapse from the date of the last conviction on the DVLA licence before an application is approved or a licence restored.

An application received which details one of the following offences on the DVLA licence; DD30, DD60, DD70, will automatically be refused or a current licence suspended or revoked. No further application will be approved until such time as that conviction is removed under the Rehabilitation of Offenders period. Other offences covered in this section will be treated under the dishonesty/violence category as detailed in the Criminal Convictions section.

Appendix 7

Driving a Motor Vehicle under the Influence of Drink or Drugs:

A serious view is taken of convictions of driving or being in charge of a vehicle while under the influence of drink or drugs. An application with one conviction on the DVLA licence under this category will be accepted providing a 12 months period has elapsed since the restoration of his DVLA licence. More than one conviction of this type and the application will be refused until such time as one of the convictions has been removed under the Rehabilitation of Offenders period.

Road.cc

NEWS

More than 8000 drivers have 12 or more points on their licence - and are still allowed on the roads

Some have as many as 25 points - and the worst offenders are men

by Sarah Barth April 27, 2013



driving using mobile phone

More than 8000 drivers in the UK have 12 or more points on their licence - despite an official upper limit of 12 before a driver faces disqualification.

A total of 14 UK drivers have more than 25 points - all of them men.

In fact the gender imbalance is very pronounced: of the top 99 licence point holders, just fourteen are women; 2256 men are still driving with more than 12 points on their licence, and 351 women are still driving with more than 12 points their licence.

The DVLA states that the official top limit for licence points is 12 (or six for those who have held a licence for three years or less) - but a Freedom of Information request carried out by the Institute of Advanced Motorists revealed that there were a surprisingly large number of drivers still on the roads with far more penalty points.

A male driver from Warrington has the highest number of points, 36.

IAM chief executive Simon Best said: "Law abiding drivers will be shocked that so many drivers are on the road who have more than 12 points. The 'totting up' principle is supposed to give a simple four strikes and you are out message. Anything more than this should be a disqualification, unless there are the most exceptional circumstances.

"There must be tighter practice in courts and at the DVLA to take these motorists off the road or ensure they take a driver retraining course to help them break their points habit."



Totting up driver gets ban: exceptional hardship defence failed

Posted on [August 9, 2013](#)

A father of four who 'totted' up points on his licence has been banned from driving despite claiming exceptional hardship.

Waheed Rafiq, 42, of Worcester, tried to use the defence of exceptional hardship against a driving ban because he needed to take his son to the hospital.

Rafiq admitted to driving without insurance, driving otherwise than in accordance with a licence and using a car without a MOT certificate in December last year, when he appeared in court.

His licence was revoked by the DVLA in October last year and the police had written to him in January this year offering to settle the matter by way of a fixed penalty.

Rafiq, who is unemployed, requested some kind of payment plan which was rejected by the police who warned that if he did not pay in full the case would come to court.

He already had 6 points on his licence and had now 'totled' up points on his licence making him eligible for a driving ban.

Rafiq claimed a ban would cause him exceptional hardship as his son needed to attend upcoming hospital appointments and the car was needed as taxis and public transport was too expensive.

However, the Prosecution pointed out that the hospital was less than a mile away from the family home and many people in the area used public transport.

The Prosecution also said that the ban would cause inconvenience, but not exceptional hardship.

The Court agreed and Rafiq was banned from driving for 6 months.

Emma Smith, expert criminal defence lawyer at Swain & Co says, "Recent cases of use of exceptional hardship defence show that where a person's livelihood is at stake or that the hardship will affect others, there is a higher chance of the defence being successful."

Mail online News

Still driving with 42 points on her licence: Woman is among nine motorists who have 30 or more and are still on the road

- **Despite being three times the ban threshold, the woman is still driving**
- **Another eight have 30 or more points**
- **7,621 people are still driving with 12 points or more on their licence**

By [Ray Massey](#)

PUBLISHED: 01:57, 5 September 2013 | **UPDATED:** 02:41, 5 September 2013

Offender: The record-breaking but unnamed woman driver from Isleworth in west London accumulated 42 points last year

Appendix 8

A woman driver has clocked up a record 42 penalty points but is still driving - despite being more than three times over the threshold that would normally lead to a ban.

Eight more motorists are still driving with 30 or more points, figures reveal today.

Another 7,000 drivers have 12 points or more.

Normally, under the 'totting up' system, drivers are banned if they accumulate 12 points on their licence over a three-year period.

The new official Government figures have outraged motoring groups and road safety campaigners who say it makes a mockery of penalty points system and bringing it 'into disrepute'.

They say the ministers at the Departments for Transport and Justice must act to clamp down on the scandal which is leaving potentially dangerous drivers unpunished on the nation's roads.

The statistics were highlighted by the Institute of Advanced Motorists (IAM) (must credit) which collated them from information supplied under a Freedom of Information request to the Government's Driver and Vehicle Licensing

The record-breaking but unnamed woman driver from Isleworth in west London accumulated 42 points last year.

All the points were for failing to disclose the identity of the driver on six occasions between May 26 and December 21 last year - accruing six points each time.

Today's new figures show that the second-highest tally for a person still driving was 36 points clocked up by man from Warrington, Cheshire, who was caught driving without insurance six times in less than two weeks between February and March last year.

Next is a woman from Hull who has accumulated 31 points on six counts - three of speeding and three more for failing to say who was driving .

The IAM said 7,621 people are still driving with 12 points or more on their licence.

It blamed failures to communicate between the courts and the DVLA - particularly when drivers clocked up repeat points over a short time.



Eight more motorists are still driving with 30 or more points, figures reveal today. Another 7,000 drivers have 12 points or more

Some drivers given points for failing to disclose the driver had argued that a series of people had ‘test-driven the car ahead of a sale and they didn’t know who was at the wheel at the time of the offence’, said the IAM.

IAM chief executive Simon Best said: ‘The DVLA and the courts service are upgrading their computer systems to ensure that offence information is shared more efficiently, but this is not due to be in place until October.

But when drivers with 10 speeding offences are getting away with holding a licence, these improvements cannot come quickly enough.’

A spokesman for HM Courts & Tribunals Service said: ‘The vast majority of drivers who get 12 or more penalty points are fined and disqualified from driving.

‘Magistrates can use their discretion to not enforce a driving ban if doing so would cause exceptional hardship, such as losing a job or the ability to care for a dependant. A fine will still be enforced.

Only a very small number of cases are affected by the data-sharing issue and we are working closely with DVLA to improve this.’

A DVLA spokesman said: ‘The DVLA’s role is to record the information provided by the courts. The courts are able to use their discretion to decide whether or not to disqualify a driver.’

Seconds ago these men were cheering on a dance routine by beautiful scantily-clad women in Amsterdam’s Red Light district... so why do they look so shocked and upset when it ends?

The Telegraph

Thousands of motorists escaping totting up driving ban

A driver with 54 penalty points has been allowed to keep his licence by the courts, it has emerged.



The 27-year-old from Teeside is one of more than 11,000 motorists whose licences have not been revoked despite totting up 12 points last year.

Of these 10,000 have been let off by the courts, while another 1,000 are still driving because details of the disqualification failed to reach the Driver and Vehicle Licensing Agency.

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The number of motorists still on the road despite accumulating more points than needed for a driving ban were disclosed, as a result of a Freedom of Information inquiry by a Sunday newspaper.

Around one driver in four facing disqualification has been shown clemency under the "exceptional hardship" provisions which allow the courts a measure of discretion when considering whether to impose a driving ban.

Nick Freeman, the solicitor known as "Mr Loophole", has made a number of successful applications under these provisions.

Last month he persuaded Staines magistrates to suspend a motoring ban faced by Joe Cole, the Liverpool footballer, after telling the court that the England international's wife had been unable to get behind the wheel after being severely traumatised by a carjacking and therefore relied on her husband as a driver.

Courts have shown clemency for a number of reasons, including accepting a plea from a businessman who persuaded magistrates that his company would lose key contracts.

Andrew Howard, the AA's head of road safety, voiced outrage at the number of motorists being let off.

"You are not talking about someone who has made one mistake, but four," he said.

"If a quarter of motorists are getting let off, we seem to have forgotten the purpose of the law is to inconvenience those who repeatedly break it."

A spokesman for the Royal Society for the Prevention of Accidents also voiced concern.

"The points system is there to flag up problem areas of driving and give motorists the opportunity to improve. Ultimately the threat of disqualification does need to be there so people take the enforcement aspect of road safety seriously."

While the Government accepts that courts should be given the power to handle cases on their merits, Mike Penning, the road safety minister, has ordered an urgent inquiry into the cases of the 1,000 drivers who are still on the road despite being disqualified by the courts.

"It is our job to enforce the courts' will," Mr Penning told the Daily Telegraph. "It 10 per cent of cases a court's decision to remove a licence has not reached the DVLA.

"I am adamant that this will not happen in future."

A spokesman for the DVLA said: "The courts are able to use their discretion to decide whether or not to disqualify a driver.

"The DVLA's role is to record the information provided by the courts and work closely with the Courts Service to make sure that there are rigorous processes in place to ensure that only those who are entitled to drive are allowed to hold a licence."

Driver convictions and penalty point accumulation

Number of drivers with 20 points or less (broken down by number of points)

Number of Points	Number of Drivers
3	1122
4	15
5	10
6	366
7	9
8	20
9	96
10	7
11	12
12	16
13	1
14	2
18	1
20	1
Total:	1678

Details of drivers with 10 points

Date driving licence issued	Failing to stop after an accident	Driving without due care & attention	Causing or likely to cause danger – overloaded vehicle	Using a mobile phone while driving	No insurance	Failure to identify driver	Exceeding the statutory speed limit	Exceed speed limit on motorway	Failing to comply with traffic lights signal
22/11/12		5 pts 01/11/12						5 pts 26/09/11	
19/04/12					6 pts		4 pts		

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					14/06/10		23/10/11		
30/07/09			3 pts 17/02/13				3 pts 27/10/12 4 pts 10/06/10		
15/04/97						6 pts 20/01/10	4 pts 15/07/10		
28/09/02		4 pts 05/06/11					6 pts 09/11/09		
23/11/07		7 pts 05/02/10							3 pts 12/12/09
14/11/12	7 pts 19/11/11			3 pts 12/05/12					

Details of drivers with 11 points

Date driving licence issued	Failing to stop after an accident	Driving without due care & attention	Using a vehicle with defective tyres	No insurance	Contravention of pedestrian crossing	Exceeding the statutory speed limit	Exceed speed limit on motorway	Failing to comply with traffic lights signal
03/10/12			3 pts 27/02/11	8 pts 22/07/11				
19/01/12							5 pts 01/02/13 3 pts 22/07/12	3 pts 22/06/11
04/04/12				8 pts 03/11/11		3 pts 04/06/10		
11/11/10				8 pts 03/12/11	3 pts 23/05/12			
29/05/13				8 pts 04/01/11				3 pts 07/01/12
25/05/11			3 pts 30/10/10	8 pts 20/02/10				
11/02/12	5 pts 26/01/11					3 pts 04/06/10 3 pts 19/06/10		
02/06/12	7 pts 26/09/12					4 pts 16/01/10		
05/02/10						3 pts 05/02/11 3 pts 11/01/12 5 pts 18/11/12		

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02/08/12				8 pts 06/06/11	3 pts 10/12/11			
10/11/12	8 pts 02/10/12							3 pts 20/07/13
01/05/10		5 pts 17/03/10				6 pts 24/04/11		

Details of drivers with 12 points

Date driving licence issued	Using a vehicle with defective tyres	Using a mobile phone while driving	Driving/attempting to drive with alcohol levels over the limit	No insurance	Failure to identify driver	Contravention of pedestrian crossing	Exceeding the statutory speed limit	Exceed speed limit on motorway	Failing to comply with traffic lights signal
01/01/92	3 pts 04/09/10						3 pts 27/11/11 3 pts 27/07/11 3 pts 02/04/10		
12/11/11			12 pts 25/06/06						
08/08/08				6 pts 19/02/11		3 pts 25/01/13	3 pts 26/06/11		
20/10/12	3 pts 22/08/13						3 pts 31/01/10 3 pts 28/02/12		3 pts 03/07/11
20/06/12	3 pts 24/11/10						6 pts 12/09/11 3 pts 08/11/09		
12/12/12					6 pts 14/06/11 6 pts 13/04/12				
22/05/12							3 pts	3 pts	

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							12/08/12	25/01/11 3 pts 22/01/11 3 pts 21/01/11	
16/06/11							6 pts 26/08/10		3 pts 13/06/10 3 pts 02/05/12
03/10/10							3 pts 05/07/10 3 pts 17/11/12 3 pts 22/11/12 3 pts 19/12/12		
25/09/73							3 pts 03/03/10 3 pts 24/06/10 3 pts 27/12/11 3 pts 12/02/12		
25/08/01		3 pts 23/07/12 3 pts 18/08/12					3 pts 22/05/11		3 pts 19/01/11
25/01/12		3 pts 23/07/12 3 pts 18/08/12					3 pts 22/05/11		3 pts 19/01/11
23/05/13		3 pts 14/02/11					3 pts 10/07/11		

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		3 pts 06/07/10					3 pts 19/02/11		
18/03/03	3 pts 25/11/12	3 pts 04/09/10					6 pts 24/10/10		
19/07/13	3 pts 25/11/12	3 pts 04/09/10					6 pts 24/10/10		
19/09/12	3 pts 07/09/11	3 pts 07/01/10					3 pts 21/09/10 3 pts 17/03/10		

Details of drivers with 13 points

Date driving licence issued	No insurance	Exceeding the statutory speed limit
04/05/13	7 pts 06/07/12	3 pts 07/02/11 3 pts 14/11/09

Details of drivers with 14 points

Date driving licence issued	Using a mobile phone while driving	No insurance	Exceeding the statutory speed limit	Failing to comply with traffic lights signal
05/04/13		8 pts 02/02/10	3 pts 06/11/11	3 pts 03/02/12
22/01/13	3 pts 27/08/10	8 pts 05/05/10	3 pts 10/07/11	

Details of drivers with 18 points

Date driving licence issued	Using a vehicle with defective tyres	No insurance	Exceeding the statutory speed limit
15/01/08	3 pts 27/02/10 3 pts 27/02/10 3 pts 20/08/10	6 pts 05/03/13	3 pts 05/06/13

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Details of drivers with 20 points

Date driving licence issued	No insurance	Disqualification under 'totting up'
21/01/11	8 pts 20/07/12	12 pts 12/11/10

Proposed table - Offences covered under minor motoring convictions

AC10	Failing to stop after an accident
AC20	Failing to give particulars or report an accident within 24 hours.
AC30	Undefined accident offence
CU10	Using vehicle with defective brakes.
CU20	Causing or likely to cause danger by reason of use of unsuitable vehicle or using a vehicle with parts or accessories (excluding brakes, steering or tyres) in a dangerous condition.
CU30	Using a vehicle with defective tyres.
CU40	Using a vehicle with defective steering.
CU50	Causing or likely to cause danger by reason of load or passengers.
CU80	Breach of requirements as to control of a vehicle, mobile telephone etc
LC10	Driving without a licence.
MS10	Leaving a vehicle in a dangerous position.
MS20	Unlawful pillion riding.
MS30	Playstreet Offences.
MS40	Driving with uncorrected defective eyesight or refusing to submit to a test.
MS60	Offences not covered by other codes.
MS70	Driving with uncorrected defective eyesight.
MS80	Refusing to submit to an eyesight test.
MW10	Contravention of Special Road Regulations (excluding speed limits).
PC10	Undefined Contravention of Pedestrian Crossing Regulations.
PC20	Contravention of Pedestrian Crossing Regulations with moving vehicle.
PC30	Contravention of Pedestrian Crossing Regulations with stationary vehicle.
PL10	Driving without 'L' plates.
PL20	Not accompanied by a qualified person.
PL30	Carrying a person not qualified.
PL40	Drawing an unauthorised trailer.
PL50	Undefined failure to comply with conditions of a Provisional Licence.
SP10	Exceeding goods vehicle speed limit.
SP20	Exceeding speed limit for type of vehicle (excluding goods or passenger vehicles).
SP30	Exceeding statutory speed limit on a public road
SP40	Exceeding passenger vehicle speed limit.
SP50	Exceeding speed limit on a motorway.
SP60	Undefined speed limit offence.
TS10	Failing to comply with traffic light signals.
TS20	Failing to comply with double white lines.
TS30	Failing to comply with a 'Stop' sign.
TS40	Failing to comply with direction of a constable or traffic warden.
TS50	Failing to comply with traffic sign (excluding 'Stop' sign, traffic lights or double white lines).
TS60	Failing to comply with school crossing patrol sign.
TS70	Undefined failure to comply with a traffic direction or sign.

Proposed table – Offences covered under major motoring convictions

CD10	Driving without due care and attention.
CD20	Driving without reasonable consideration for other road users.
CD30	Driving without due care and attention or without reasonable consideration for other road users.
CU10	As a second offence on DVLA licence
CU20	As a second offence on DVLA licence
CU30	As a second offence on DVLA licence
CU40	As a second offence on DVLA licence
CU50	As a second offence on DVLA licence
CU80	As a second offence on DVLA licence
IN10	Using a vehicle uninsured against third party risks.
BA10	Driving while disqualified by order of Court.
BA30	Attempt to drive while disqualified as under age.
MS50	Motor racing on Highway
MS80	Refusing to submit to an eyesight test
MS90	Failure to give information as to identity of driver

Proposed Table - Offences for driving a motor vehicle under the influence of drink or drugs

DR10	Driving or attempting to drive with alcohol level above limit.
DR20	Driving or attempting to drive while unfit through drink or drugs.
DR30	Driving or attempting to drive then refusing to supply a specimen for analysis.
DR31	Driving or attempting to drive then refusing to give permission for analysis of a blood sample that was taken without consent due to incapacity
DR61	Refusing to give permission for analysis of a blood sample that was taken without consent due to incapacity in circumstances other than driving or attempting to drive
DR40	In charge of a vehicle while alcohol level above limit.
DR50	In charge of a vehicle while unfit through drink or drugs.
DR60	In charge of a vehicle then refusing to supply a specimen for analysis.
DR70	Failing to provide a specimen for breath test.
DR80	Driving or attempting to drive when unfit through drugs
DR90	In charge of a vehicle when unfit through drugs

Offences where a licence will automatically be refused or a current licence suspended or revoked

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 alcohol analysis
CD80	Causing death by careless, or inconsiderate, driving
CD90	Causing death by driving: unlicensed, disqualified or uninsured drivers
DD10	Causing serious injury by dangerous driving
DD40	Dangerous driving.
DD60	Manslaughter or culpable homicide while driving a vehicle.
DD70	Causing death by dangerous driving.
DD90	Furious driving
	When applicable to licensed vehicle
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 effused on medical ground
MS70	Driving with uncorrected defective eyesight

All offence codes mean also those alternative codes with differing numbers which mean, aiding, abetting, counselling or procuring; cause, use or permit and inciting offences.

Convictions Consultation: Email Responses

Response From:	Response Details:	Officer Response:	Change to policy:
Eurocabs	<p>There are no suggestions on the terms of convictions for offences committed by Licence holders.</p> <p>Where a Licence holder has been charged with an offence then they must be given an opportunity to present their case to a Licensing Panel as was the case when Lorna Cohen was the chair of the Licensing Committee.</p> <p>This system of having a Licensing Panel gives a Licence holder an opportunity to voice their concern or issue which is their democratic right and by denying them this right the decision is being dictated to them. Any errors, misunderstanding or any evidence a Licence holder may have can be discussed and reviewed and a decision can be made with minimum amount of expense and if any mistakes have been made then they can be changed causing minimum amount of losses on the Licence</p>	Discussed at previous Licensing Committees.	

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	<p>holder. Any compensation that needs to be paid for any unnecessary losses incurred by the Licence holder then these will also be kept to a minimum.</p> <p>Incentives like reduced suspensions or revocation of Licence FOR FIRST TIME OFFENDERS ONLY, should be considered if the Licence holder agrees to have a CCTV fitted into their vehicle for offences that have been committed whilst the vehicle was in use or the vehicle was used to commit these offences e.g. plying for hire, low level assault cases should be considered under this scheme.</p>	<p>This has been considered previously and is not considered practical.</p>	
<p>Licensed driver.</p>	<p>I think that a single officer or just the vehicle licensing should not be responsible for revoking or suspending licenses a panel should be responsible for making this decision.</p> <p>On cases where it is not a serious offence a the licensee should be innocent until he is proven guilty. With claims of assault(physical / sexual) then instant suspension or revocation</p>	<p>Dealt with above.</p> <p>The Act is specifically created to deal with dangers before conviction or even without a</p>	

	<p>of license is understandable but again working with the police crown prosecution service the cases should be dealt with as quickly as possible so an innocent driver is not at a loss for too long.</p>	<p>conviction.</p>	
<p>Unite the Union – Leeds Hackney Drivers Branch 302/3</p>	<p><u>Revocation and Suspension of Licences</u>.-</p> <p>In summary, Unite agrees with the current policy on revocation and suspension of licences. However, there is scope for improvement and this would be in <i>Sec 2. Conviction Criteria Guidelines</i>. Paragraph 3 is well worded, but Unite feels that the inclusion of ‘<i>and operator</i>’ should be placed in. It is wholly inconceivable that only drivers should be held accountable under this section and firmly believes that accountability should now increase to operators too.</p> <p><i>Sec 4. Requirement to report</i>, would appear to need amending in that it is unfair under both sub-section (c & d) to use these measures for incidents such as a court summons for financial reasons and otherwise for parking ticket issues. Both these sub-sections require greater clarity and Unite would</p>	<p>Already applies to all licence holders.</p> <p>There are a few areas where we would not take action but when we start to dilute the requirement it becomes difficult for drivers to understand.</p>	

	<p>welcome both the removal of such implication that the above could be construed as such in them.</p> <p><i>Sec 5. Suspension, Revocation and Refusal of Licenses</i>, would also appear to need an amendment. Such article is in <i>Sec (b(iv))</i> “Any other reasonable cause”. Unite knows and feels that this section, although part of current legislation is abused by enforcement officers and there is no consistency when adopting this section. If this section were to remain, then Unite would prefer to see an implementation of a ‘<i>Tariff</i>’ of such reasonable causes. This would ensure that drivers would not be placed in an uncompromising position without the knowledge that they had ‘unreasonably’ caused an offence under this section.</p> <p>It is not unreasonable to ascertain such a system given that currently a points system exists for criminal convictions for both applications and renewals of both operator and drivers licences. This would further cement the sections ability to make clear and unambiguous decisions, which could later be challenged by the individuals</p>	<p>The decision making record by Officers based on the policy proves this to be an inaccurate statement.</p> <p>The benefit of the current criteria is its simplicity and easy operation.</p>	
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	<p>concerned.</p> <p>Sec (c) is also in need of a cursory amendment in so far as the wording “currency” in reaching a timescale for a length of a licence. Unite feels that once again, a clear definitive word such as “year” or “for as long as the licence is held” would be clearer and would fall in line with PEC guidelines and their crystal mark scheme.</p> <p>Sec 6. Appendix 1. Would appear to need clearer objectives. Item 2 should be made clearer to ensure that all offences be collated and individually tested for presentation before or after court. No one individual offence should be treated any lesser than the next. An offence is an offence and no arbitration should be given for this nature. Given that, summary offences carry greater sentences than others do. It remains that offences, which are committed, should be attributed and accountable. Moreover, it is felt that <i>item 4 should apply to both items 2 and 3 respectively.</i></p> <p>Sec 7. Unite have a specific view on this point. Unite feel that under current UK court law, ‘it is with a</p>	<p>Please see earlier response.</p>	<p>Please see change proposals.</p>
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	<p><i>preponderance of evidence that a case is dealt with</i>. Unite therefore feels it is unfair to automatically assume that an applicant must be considered guilty, even though a magistrate or judge has not found them to be so or cannot reach a decision. This completely flies in the belief that <i>'a person is innocent until proven guilty'</i>.</p> <p>Sec 7. Appendix 2. Unite would like to understand where the points criteria tables is established from. On the basis that the points criteria system is questionable, Unite would prefer to see the system suspended until such time as a greater amount of evidence can be presented as to where, how and who was responsible for this.</p>	<p>Officers disagree with this and as highlighted in the reports the Court approve of this system.</p>	
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