

FAREHAM

BOROUGH COUNCIL

AGENDA LICENSING PANEL

Date: Tuesday, 6 November 2018

Time: 10.00 am

Venue: Pulheim Room - Civic Offices

Members:

Councillor Mrs P M Bryant (Chairman)

Councillors I Bastable

Mrs C Heneghan



1. Exclusion of the Public and Press

To consider whether it is in the public interest to exclude the public and representatives of the press from the remainder of the meeting in accordance with Section 100(A) of the Local Government Act 1972, on the grounds that the matters to be dealt with involve the likely disclosure of exempt information as defined in Paragraphs 1, 2 and 3 of Part 1 of Schedule 12 of the Act.

Item(s) which may be taken in private

2. Application(s) for Hackney Carriage/Private Hire Vehicle Driving Licence(s)
(Pages 3 - 34)

To consider a report by the Licensing Manager which contains exempt information on application(s) for a hackney carriage/private hire vehicle driving licence(s).



P GRIMWOOD
Chief Executive Officer

www.fareham.gov.uk

25 October 2018

**For further information please contact:
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Agenda Item 2

By virtue of paragraph(s) 1 of Part 1 of Schedule 12A of the Local Government Act 1972.

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**PROCEDURE FOR THE HEARING OF APPEALS
BY THE LICENSING PANEL**

INTRODUCTION

- 1 Where both parties intend to produce documents in support of his/her case they shall exchange documents 7 days prior to the date of hearing and further shall supply copies of these documents to the Council's Licensing Officer not less than 3 working days prior to the date of the hearing.
- 2 By reason of the confidential nature of some types of case heard by the Licensing Panel the public and press may be excluded from the proceedings.
- 3 The applicant will have the right to be accompanied at the hearing by his/her representative, who may present the case for or on behalf of the applicant.
- 4 At the commencement of the hearing, the applicant, or his/her representative and the Council's Licensing Officer, will present to the Panel details of any witnesses to be called.

LICENSING OFFICER

- 5 **The Licensing Officer** will then present the circumstances of the case, as supported by any documentary evidence, and may call witnesses.
- 6 **The applicant or his/her representative** may ask questions of the Licensing Officer and witnesses on any of the evidence presented by them.
- 7 **Objectors to the application** may then ask questions of the Licensing Officer and any witnesses called.
- 8 **The Panel Members** may ask questions of the Licensing Officer and witnesses on any of the evidence presented by them.

APPLICANT

- 9 **The applicant and his/her representative** may present his/her case/submission to the Sub-Committee as supported by any documentary evidence and may call witnesses.
- 10 **The Licensing Officer** may ask questions of the applicant and /or his/her representative and any witnesses on their evidence.
- 11 **The Objectors** to the application may ask questions of the applicant and any witnesses on their evidence.
- 12 **The Panel members** may ask questions of the applicant and/or his/her representative and any witnesses on their evidence.

THE OBJECTORS

- 13 **The Objectors** will give details of their objections to the application. This may be supported by documentary evidence and witnesses may be called.
- 14 **The Applicant** may then ask questions of the objectors and any witnesses called by the objectors.
- 15 **The Panel Members** may then ask questions of the objectors and any witnesses called by the objectors.

SUMMING UP

- 16 **The Licensing Officer, the applicant and/or his/her representative and the objector** will then have the opportunity to sum up their cases if they so wish.
- 17 **All parties and their witnesses** will then be asked to withdraw from the meeting whilst the Licensing Panel deliberates in private. In the event of uncertainty on any of the evidence, all parties will be recalled regardless of the fact that the point in question may relate only to the evidence of one of the parties.
- 18 When the Licensing Panel has completed its deliberations, both parties will be recalled to the meeting and the Chairman will announce the Panel's decision.

GUIDELINES RELATING TO THE RELEVANCE OF CONVICTIONS

General Policy

1. Each case will be decided on its own merits.
2. A person with a current conviction for serious crime need not be permanently barred from obtaining a licence but should be expected to remain free of conviction for 3 to 5 years, according to the circumstances, before an application is entertained. Some discretion may be appropriate if the offence is isolated and there are mitigating circumstances. However, the overriding consideration should be the protection of the public.
3. The following examples afford a general guide on the action to be taken where convictions are admitted.

(a) **Minor Traffic Offences**

Convictions for minor traffic offences, e.g. obstruction, waiting in a restricted street, speeding etc, should not prevent a person from proceeding with an application. If sufficient points have been accrued to require a period of disqualification of the applicant's driving licence then a hackney carriage or PHV licence may be granted after its restoration but a warning should be issued as to future conduct.

(b) **Major Traffic Offences**

An isolated conviction for reckless driving or driving without due care and attention etc, should normally merit a warning as to future driving and advice on the standard expected of hackney carriage and PHV drivers. More than one conviction for this type of offence within the last two years should merit refusal and no further application should be considered until a period of 1 to 3 years free from convictions has elapsed.

(c) **Drunkenness**

(i) **With Motor Vehicle**

A serious view should be taken of convictions of driving or being in charge of a vehicle while under the influence of drink. An isolated incident should not necessarily debar an applicant but strict warnings should be given as to future behaviour. More than one conviction for these offences should raise grave doubts as to the applicant's fitness to hold a licence. At least 3 years should elapse (after the restoration of the driving licence) before an applicant is considered for a licence. If there is any suggestion that the applicant is an alcoholic, a special medical examination should be arranged before the application is entertained. If the applicant is found to be an alcoholic a period of 5 years should elapse after treatment is complete before a further licence application is considered.

(ii) **Not in Motor Vehicle**

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

(d) **Drugs**

An applicant with a conviction for a drug related offence should be required to show a period of at least 3 years free of convictions before an application is entertained, or 5 years after detoxification treatment if he/she was an addict.

(e) **Indecency Offences**

As hackney carriage and PHV drivers often carry unaccompanied passengers, applicants with convictions for indecent exposure, indecent assault, importuning, or any of the more serious sexual offences, should be refused until they can show a substantial period (at least 3 to 5 years) free of such offences. More than one conviction of this kind should preclude consideration for at least 5 years. In either case if a licence is granted a strict warning as to future conduct should be issued.

(f) **Violence**

As hackney carriage and PHV drivers maintain close contact with the public, a firm line should be taken with applicants who have convictions for grievous bodily harm, wounding or assault. At least 3 years free of such convictions should be shown before an application is entertained and even then a strict warning should be administered.

(g) **Dishonesty**

Hackney carriage and PHV drivers are expected to be persons of trust. The widespread practice of delivering unaccompanied property is indicative of the trust that business people place in drivers. Moreover, it is comparatively easy for a dishonest driver to defraud the public by demanding more than the legal fare etc. Overseas visitors can be confused by the change in currency and become "fair game" for an unscrupulous driver. For these reasons a serious view should be taken of any conviction involving dishonesty. In general, a period of 3 to 5 years free of conviction should be required before entertaining an application.

**STATEMENT OF POLICY ABOUT RELEVANT CONVICTIONS
HACKNEY AND PRIVATE HIRE VEHICLE DRIVERS LICENCES**

“When submitting an application for a licence to drive a hackney carriage/private hire vehicle you are requested to declare any convictions you may have. The information you give will be treated in confidence and will only be taken into account in relation to your application. You should be aware that the licensing authority is also empowered in law to check with the Criminal Records Bureau for the existence and content of any criminal record held in the name of an applicant. Information received from the Criminal Records Bureau will be kept in strict confidence while the licensing process takes its course and will be retained for no longer than is necessary. The disclosure of a criminal record or other information will not debar you from gaining a licence unless the authority considers that the conviction renders you unsuitable. In making this decision the authority will consider the nature of the offence, how long ago and what age you were when it was committed, and any other factors which may be relevant. Any applicant refused a driver’s licence on the ground that he/she is not a fit and proper person to hold such a licence has a right of appeal to a Magistrates’ Court.

Guide to periods of time after which endorsements and penalty points can be removed from a driving license and the number of points that courts may impose

The following is a guide to the number of penalty points a court may impose, it does not reflect the fact that some of the offences may incur a disqualification. The offence code and penalty points will be shown on the driving license and must stay there for four or eleven years depending on the offence.

Accident offences

Offence codes AC10 to AC30 must stay on a driving licence for four years from date of offence.

Code	Offence	Penalty points
AC10	Failing to stop after an accident	5-10
AC20	Failing to give particulars or to report an accident within 24 hours	5-10
AC30	Undefined accident offences	4-9

Disqualified driver

Offence codes BA10 and BA30 must stay on a driving licence for four years from date of offence.

Code	Offence	Penalty points
BA10	Driving while disqualified by order of court	6
BA30	Attempting to drive while disqualified by order of court	6

Careless driving

Offence codes CD10 to CD30 must stay on a driving license for four years from date of offence.

Code	Offence	Penalty points
CD10	Driving without due care and attention	3-9
CD20	Driving without reasonable consideration for other road users	3-9
CD30	Driving without due care and attention or without reasonable consideration for other road users	3-9

Offence codes CD40 to CD70 must stay on a driving license for eleven years from date of conviction.

Code	Offence	Penalty points
CD40	Causing death through careless driving when unfit through drink	3-11
CD50	Causing death by careless driving when unfit through drugs	3-11
CD60	Causing death by careless driving with alcohol level above the limit	3-11
CD70	Causing death by careless driving then failing to supply a specimen for analysis	3-11

Construction and use offences

Offence codes CU10 to CU80 must stay on a driving license for four years from date of offence

Code	Offence	Penalty points
CU10	Using a vehicle with defective brakes	3x
CU20	Causing or likely to cause danger by reason of use of unsuitable vehicle or using a vehicle with parts or accessories (excluding brakes,	3

	steering or tyres) in a dangerous condition	
CU30	Using a vehicle with defective tyre(s)	3
CU40	Using a vehicle with defective steering	3
CU50	Causing or likely to cause danger by reason of load or passengers	3
CU80	Using a mobile phone while driving a motor vehicle	3

Reckless/dangerous driving

Offence codes DD40 to DD80 must stay on a driving license for four years from date of conviction.

Code	Offence	Penalty points
DD40	Dangerous driving	3-11
DD60	Manslaughter or culpable homicide while driving a vehicle	3-11
DD80	Causing death by dangerous driving	3-11
DD90	Furious driving	3-9

Drink or drugs

Offence codes DR10 to DR30 must stay on a driving license for eleven years from date of conviction.

Code	Offence	Penalty points
DR10	Driving or attempting to drive with alcohol level above limit	3-11
DR20	Driving or attempting to drive while unfit through drink	3-11
DR30	Driving or attempting to drive then failing to supply a specimen for analysis	3-11

Offence codes DR40 to DR70 must stay on a driving license for four years from date of offence.

Code	Offence	Penalty points
DR40	In charge of a vehicle while alcohol level above limit	10
DR50	In charge of a vehicle while unfit through drink	10
DR60	Failure to provide a specimen for analysis in circumstances other than driving or attempting to drive	10
DR70	Failing to provide specimen for breath test	4

Offence code DR80 must stay on a driving license for eleven years from date of conviction.

Code	Offence	Penalty points
DR80	Driving or attempting to drive when unfit through drugs	3-11

Offence code DR90 must stay on a driving license for four years from date of offence.

Code	Offence	Penalty points
DR90	In charge of a vehicle when unfit through drugs	10

Insurance offences

Offence code IN10 must stay on a driving license for four years from date of offence.

Code	Offence	Penalty points
IN10	Using a vehicle uninsured against third party risks.	6-8

License offences

Offence codes LC20 to LC50 must stay on a driving licence for four years from date of offence.

Code	Offence	Penalty points
LC20	Driving otherwise than in accordance with a licence	3-6
LC30	Driving after making	3-6

	a false declaration about fitness when applying for a licence	
LC40	Driving a vehicle having failed to notify a disability	3-6
LC50	Driving after a licence has been revoked or refused on medical grounds	3-6

Miscellaneous offences

Offence codes MS10 to MS90 must stay on a driving license for four years from date of offence

Code	Offence	Penalty points
MS10	Leaving a vehicle in a dangerous position	3
MS20	Unlawful pillion riding	3
MS30	Play street offences	2
MS50	Motor racing on the highway	3-11
MS60	Offences not covered by other codes	As Appropriate
MS70	Driving with uncorrected defective eyesight	3
MS80	Refusing to submit to an eyesight test	3
MS90	Failure to give information as to identity of driver etc	6

Motorway offences

Offence code MW10 must stay on a driving license for four years from date of offence.

Code	Offence	Penalty points
MW10	Contravention of special roads regulations (excluding speed limits)	3

Pedestrian crossings

Offence codes PC10 to PC30 must stay on a driving license for four years from date of offence.

Code	Offence	Penalty points
PC10	Undefined contravention of pedestrian crossing regulations	3
PC20	Contravention of pedestrian crossing regulations with moving vehicle	3
PC30	Contravention of pedestrian crossing regulations with stationary vehicle	3

Speed limits

Offence codes SP10 to SP50 must stay on a driving license for four years from date of offence.

Code	Offence	Penalty points
SP10	Exceeding goods vehicle speed limits	3-6
SP20	Exceeding speed limit for type of vehicle (excluding goods or passenger vehicles)	3-6
SP30	Exceeding statutory speed limit on a public road	3-6
SP40	Exceeding passenger vehicle speed limit	3-6
SP50	Exceeding speed limit on a motorway	3-6

Traffic direction and signs

Offence codes TS10 to TS70 must stay on a driving license for four years from date of offence.

Code	Offence	Penalty points
TS10	Failing to comply with traffic light signals	3
TS20	Failing to comply with double white lines	3
TS30	Failing to comply with 'Stop' sign	3
TS40	Failing to comply with direction of a constable/warden	3
TS50	Failing to comply with traffic sign (excluding 'stop' signs, traffic lights or double white lines)	3
TS60	Failing to comply with a school crossing patrol sign	3
TS70	Undefined failure to comply with a traffic direction sign	3

Special code

Offence code TT99 must stay on a driving license for four years from date of conviction.

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

Theft or unauthorised taking

Offence codes UT50 must stay on a driving license for four years from date of offence.

Code	Offence	Penalty points
UT50	Aggravated taking of a vehicle	3-11

Aiding, abetting, counselling or procuring

Offences as coded, but with 0 changed to 2 e g LC10 becomes LC12.

Causing or permitting

Offences as coded, but with 0 changed to 4 e g LC10 becomes LC14.

Inciting

Offences as coded, but with the end 0 changed to 6 e g DD40 becomes DD46.

(Information obtained from www.direct.gov.uk website)

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