

REPORT FOR DECISION

MEETING:	LICENSING & SAFETY PANEL	
DATE:	4 th DECEMBER 2014	
SUBJECT:	Amendment to Statement of Policy and guidelines relating to the relevance of convictions, formal/ simple cautions, complaints and other matters which may impact on the granting of a licence. (the conviction guidelines)	
REPORT FROM:	ASSISTANT DIRECTOR (LOCALITIES)	
CONTACT OFFICER:	MR W A JOHNSON	
TYPE OF DECISION:	COUNCIL	
FREEDOM OF INFORMATION/STATUS:	This report is within the public domain	
SUMMARY:	The report proposes amendments to the conviction guidelines previously adopted by Licensing & Safety Panel.	
OPTIONS & RECOMMENDED OPTION	<ol style="list-style-type: none"> 1. Adopt the amended conviction guidelines This is the preferred option. 2. Make a recommendation on an alternative proposal 3. Make no changes 	
IMPLICATIONS:		
Corporate Aims/Policy Framework:	Do the proposals accord with the Policy Framework? Yes	
Statement by the S151 Officer: Financial Implications and Risk Considerations:	There are no specific issues from the report other than potential costs/risks associated with legal appeals	
Health & Safety implications:	The fundamental principal is one of public protection. It is desirable that driver, vehicle and operator licences are dealt with in a consistent manner.	
Statement by Executive Director of Resources:	The cost of the licensing function is funded through the fees and charges levied by the Council. There may be additional costs if licence holders/ applicants appear before Panel or appeals on decisions are lodged with the Courts.	
Equality/Diversity implications:	None - The proposals will affect all drivers equally and do not affect any of the protected equality characteristics.	
Considered by Monitoring Officer:	This report provides for amendment to the	

	existing conviction guidelines considered by Licensing & Safety Panel when determining the "fit & proper" status of applicants and licence holders. Use of the guidelines will help ensure the risk of decisions being challenged is minimised and that there is consistency in decision making. (AG)
Wards Affected:	N/A - the recommendation is not area based
Scrutiny Interest:	Overview and Scrutiny Panel

TRACKING/PROCESS

DIRECTOR:

Chief Executive/ Strategic Leadership Team	Executive Member/Chair	Ward Members	Partners
Scrutiny Committee	Committee	Council	

1.0 BACKGROUND

- 1.1** Relevant legislation provides that the Council shall not grant a licence to hackney carriage proprietors (drivers), private hire drivers and operators unless satisfied the applicant is fit and proper to hold such a driver licence. Similarly an existing licence holder should only retain a licence whilst they remain fit and proper.
- 1.2** In determining whether a person is fit and proper Members are entitled to review a person's history of offending and general previous conduct. In particular the Council is concerned to ensure the public are not exposed to persons with a history of dishonesty, indecency or violence and the safeguarding of children, young persons and vulnerable adults.
- 1.3** For a number of years the Licensing & Safety Panel has used conviction guidelines when determining the fit and proper status of applicants and licence holders.
- 1.4** The guidelines were developed by the AGMA Licensing Managers' Group. The guidelines are periodically reviewed by the group; such a review has resulted in this report.
- 1.5** Members are entitled to deviate from the guidelines. Where a decision departs from the guidelines Members should give clear reasons for doing so.

2.0 COMPARISON WITH CURRENT GUIDANCE

- 2.1** The position on matters other than convictions and an appearance at Panel is clarified. Within the guidelines the word "issue" is used. This includes complaints made to the Council, Police, Operators or any other agency, breaches of licensing conditions and intelligence received from other agencies (including circumstances which have not resulted in a criminal conviction, caution or other disposal). As an example incidents which have resulted in a police investigation where there has been no further action due to the criminal burden of proof will still be considered if Panel is satisfied that the incident occurred based on the balance of probabilities.

- 2.2** Restorative justice and other criminal disposals are increasingly used by the Police as a less formal way of dealing with issues and as an alternative to the criminal court system. The Council recognises that restorative justice and other out of court disposals tend to be applied in many cases including first time offenders, nevertheless all such disposals will be taken into account when determining if a person is a fit and proper person.
- 2.3** In addition to checks made to the Disclosure Barring Service, Officers will where appropriate contact other agencies (Housing providers, BSCB, Children's Services and Greater Manchester Police etc) for any relevant information they may hold. Any information gained will be kept in strict confidence and will be retained no longer than is necessary and in any event will be destroyed in accordance with the requirements of the Data Protection Act 1998. The Council will sometimes be made aware of other intelligence or low level information about an individual which has not resulted in the conviction of that person but is relevant in relation to their character. Officers will give appropriate consideration to this information and will seek to consult with other appropriate agencies in order to ensure that they have a comprehensive understanding. Where appropriate, officers will refer such information/ intelligence to an independent allegations management process. Any additional information gathered through this process may then be taken into account at any subsequent Panel hearing.
- 2.4** Where Panel is convened as a result of sensitive information being received by the Council an assessment will be undertaken in balancing a person's right to a fair hearing against whether or not it is in the public interest to hold the hearing ex-parte.

3.0 CONCLUSION

- 3.1** The conviction guidelines have been in use for many years and have assisted Members in making fair and consistent responses to licence applications and when dealing with licence holders appearing before Licensing and Safety Panel.
- 3.2** The proposed amendments are designed to update the existing document.

List of Background Papers:-

Statement of Policy and Guidelines relating to the relevance of convictions, formal/ simple cautions, complaints and other matters regarding the granting of a licence.



211114 - Conviction
Policy inc Bury's Track

Contact Details:-

Mr W A Johnson
Head of Trading Standards & Licensing
Resources & Regulation
3 Knowsley Place
Duke Street
Bury
BL9 0EJ
Telephone: 0161 253 5514
Email: a.johnson@bury.gov.uk