

From the office of the Minister for Infrastructure
LIZ KIMMINS MLA

Gareth Wilson MLA
Gareth.Wilson@mla.niassembly.gov.uk

Private Office, 3rd Floor,
James House, Gasworks Site,
2 - 4 Cromac Avenue,
Belfast, BT7 2JA
Telephone: (028) 9054 0540
Email: Private.office@infrastructure-ni.gov.uk

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DEPOSITING PAPERS CONCERNING AQW 54334/22-27

Pursuant to AQW 54334/22-27 a copy of the Licensing of Taxi Drivers Guidelines is now deposited in the Assembly Library. These guidelines reflect the Department's position at this time.

As a live document, the guidelines will be updated, as necessary, to take account of changes in legislation, case law, policy, operational practice or other relevant developments.

Should there be any follow on queries concerning the Deposited Paper, you can contact my officials from the Driver & Vehicle Agency on 02890 254112 or by email at Chief.ExecutiveDVA@infrastructure-ni.gov.uk.



LIZ KIMMINS MLA
Minister for Infrastructure

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Criteria for the Licensing of Taxi Drivers

1. Introduction and Legislative Context

The process of granting a taxi driver's licence is a complex one which requires a 'fit and proper person' check to be conducted in all cases. This requirement is set out in Section 23(2) of the Taxis Act (NI) 2008 which states:-

"the Department shall grant a taxi driver's licence to an applicant if it is satisfied that –

(a) the applicant -

(ii) is a fit and proper person to hold a taxi driver's licence"

The Department also has the power to suspend or revoke a taxi driver's licence during the currency of a licence, for any reasonable cause, or where the Department is no longer satisfied that the licence holder is fit to hold such a licence. These powers are set out in Section 26(6) of the Taxis Act (NI) 2008 which states:-

"the Department may suspend or revoke a licence... for any reasonable cause including (without prejudice to the generality of this subsection) any ground mentioned below.

(a) the Department is no longer satisfied that the licence holder is fit to hold such a licence"

(b) the licence holder has failed to comply with any condition of the licence or any other obligation imposed on the licence holder...."

These statutory requirements are in place to protect the travelling public. The Department's role is to balance the protection of the travelling public with the rights of applicants who have applied for a licence to work as a taxi driver. Effectively in considering a person's fitness to hold a licence the likely impact of the driver's reputation, in respect of the personal safety, of passengers, employees and road users has to be assessed.

2. Determining Reputation

There are no statutory provisions which relate specifically to the criteria for determining fitness to hold a taxi driver's licence. When granting a taxi driver's licence the Department relies on an Enhanced Disclosure Certificate (EDC) which enables the decision maker to make informed decisions by providing details of any relevant criminal history and any other additional information that should be taken into account of before granting a licence.

In addition, during the currency of a licence the PSNI will also notify relevant convictions incurred by a licensed taxi driver which will be considered and may result in the loss of reputation. Such convictions ultimately may lead to the suspension or revocation of a taxi driver's licence.

Whilst any record of convictions will always be a material consideration in assessing reputation, taxi drivers work directly with the public, often in one to one situations and the role of the driver may

include being in sole charge of children, young persons and vulnerable adults. In assessing reputations there is an obligation to look beyond convictions and consider other information in cases where there may be a public safety risk.

Each individual's case will be considered on its merits and the Department's objective is always to ensure that the travelling public are not subjected to unnecessary risk from taxi drivers or operators. The basic statutory requirement placed on the Department of being satisfied that an individual is a "fit and proper person" to hold a taxi licence is best summarised by asking the question "would one be happy to have a member of one's family travel in a vehicle driven or operated by the particular individual".

3. Consideration of Convictions

Each individual must satisfy the Licensing Officer that they are of good character and their previous convictions, if any, provide a good indication of an individual's mental or moral nature, tendency towards violence, dishonesty, or to other unacceptable conduct, together with their likely attitude towards the high level of responsibility placed on, and expected of, each taxi driver or operator. In assessing the merits of each individual's case their convictions, if any, will be taken at face value with the penalty imposed providing an indication as to the seriousness with which the Court viewed a particular offence.

For taxi drivers convictions are graded into "serious" or "minor" categories depending on the nature of the conviction. The brief guide set out below provides some examples of the typical classification given to particular offences:

Serious Convictions		Minor Convictions
*	Murder or Manslaughter	Excess speed
	Any Alcohol related Driving offence	Careless or Inconsiderate Driving
*	Any offence involving Violence such as Wounding or Assault, Threats to Kill, Robbery, Criminal Damage or Harassment	Other Minor breaches of the Road Traffic and other related legislation
*	Any Public Order offence	Minor breaches of the Taxi Licence legislation
*	Any sexual offence such as Rape, Gross Indecency, Indecent Assault, Indecent Behaviour	Insurance offences
*	Any Dishonesty offence such as Burglary, Theft, Handling, Fraud or State benefit related offences	Minor State Benefit related offences
*	Any Drugs related offences	
*	Any Arms or Explosive offence	
*	Any Terrorist related offence such as membership of a proscribed organisation	
*	Any serious driving offence such as Causing Death by Dangerous Driving or Dangerous Driving	
	Regular and repeated minor offending	
	Any series of motoring or other offences such as to reveal a low level of responsibility	
*	Particular consideration would apply where offences of this nature are involved and a longer period than 3 years may apply.	

4. Applying the Conviction Criteria

Applicants for a taxi driver's licence, or licence holders during the currency of a licence, are expected to have a clear record for at least 3 years in the case of a 'serious' conviction and 1 year for 'minor' convictions. In respect of "serious" convictions the Department, when assessing the merits of each individual case, may use discretion to require a much longer clear period than 3 years from the date of an individual's last conviction, release from prison, or entitlement to an ordinary driving licence, whichever is the most recent, for the individual to demonstrate that they are now a "fit and proper person" to hold a taxi licence. This would be particularly relevant where the most serious of convictions are involved such as murder or serious sexual offences. Similarly, the Department may require a longer clear period than 12 months for a "minor" conviction. The Department may also use discretion to reduce the clear period depending on the merits or mitigating circumstances of each individual's case. In some cases, where the offence is very minor, the Department may issue a Warning Letter instead. However, in reaching a decision, the Department will be less lenient where the offence was committed whilst driving a taxi.

5. Considering Common Law Police Disclosures – Early Notifications

Under the 'The Common Law Police Disclosure' PSNI will provide early notifications, usually at *charge or arrest* stage rather than conviction, where they have deemed that there is a public protection risk. This early notification is to allow regulatory bodies to act swiftly to put in place measures to mitigate any danger. Such notifications will, in the first instance, result in the immediate suspension of a taxi driver's licence, on the grounds of public safety due to the serious nature of the information provided. *Such notifications will, in the first instance, result in the immediate suspension of a taxi driver's licence, on the grounds of public safety. Any decision to suspend may be reviewed prior to the expiry date of the licence in light of police action, court proceedings or further relevant disclosures from the licence holder."*

In all cases, the licence holder will be provided with the opportunity to appeal the decision to revoke the licence and to provide the Department with grounds for appeal. In all cases, the licence holder will be required to show that they will take action to mitigate any potential public safety risk before the Appeal Panel will consider reinstating the licence.

6. Failure to Declare Convictions

The law requires that the applicant for, or the holder of, a taxi driver's licence must notify the Department if they have been convicted of any offence or if they have been disqualified from driving. Section 6(2) of The Taxi Drivers' Licences Regulations (Northern Ireland) 2014 refers. This requirement is a 'condition of licence'. Failure to declare all convictions on an application, or during the currency of the licence, is taken seriously and is seen as an attempt to mislead the Department and obtain a licence by misrepresentation. In the case of "minor" convictions individuals will generally be given a second opportunity to declare their convictions although this will not preclude the Department from refusing, suspending or revoking a licence as appropriate because of the nature of the conviction or from the Department viewing the failure to declare as an attempt to mislead and a reason in itself for refusal, suspension, or revocation.

For "serious" convictions the individual's failure to declare will be viewed more seriously and may be result in the refusal, suspension or revocation of the licence, as appropriate.

7. Other Reasons for the Suspension or Revocation of a Current Licence

It should also be noted that Regulations provide for suspension or revocation of a licence in any of the following circumstances:

- a. If the licence has been obtained by misrepresentation
- b. If an individual fails to comply with any of the conditions upon which the licence has been granted
- c. If the individual has been convicted of an offence under the legislation or any regulations made there under
- d. If the individual, for any medical reason is unable to exercise his calling without risk to the public
- e. If the individual fails to provide a medical report when requested to do so
- f. If the individual's conduct demonstrates that they are not a fit and proper person to hold a licence

8. Right of Appeal

In all cases, where the decision has been taken to refuse, suspend, or revoke a taxi driver's licence, the applicant or licence holder has the right of appeal.