



Leicester
City Council

MEETING OF THE LICENSING AND PUBLIC SAFETY COMMITTEE

DATE: TUESDAY, 25 OCTOBER 2016

TIME: 5:30 pm

PLACE: Meeting Room G.01, Ground Floor, City Hall, 115 Charles Street, Leicester, LE1 1FZ

Members of the Committee

Councillor Thomas – Chair

Councillor Byrne – Vice Chair

Councillor Hunter – Vice Chair

Councillors Dr Barton, Cank, Cole, Fonseca, Shelton and Unsworth.

1 unallocated Non-Grouped Place

Members of the Committee are summoned to attend the above meeting to consider the items of business listed overleaf.

for The Monitoring Officer

Officer contact : Graham Carey

Democratic Support

Leicester City Council

City Hall, 115 Charles Street, Leicester, LE1 1FZ

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- ✓ where filming, to (via the Chair of the meeting) ensure that those present are aware that they may be filmed and respect any requests to not be filmed.

Further information

If you have any queries about any of the above or the business to be discussed, please contact Graham Carey, **Democratic Support on (0116) 454 6356 or email graham.carey@leicester.gov.uk** or call in at City Hall, 115 Charles Street, Leicester, LE1 1FZ.

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PUBLIC SESSION

AGENDA

FIRE/EMERGENCY EVACUATION

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1. APOLOGIES FOR ABSENCE

2. DECLARATIONS OF INTEREST

Members are asked to declare any interests they may have in the business on the agenda.

3. MINUTES OF PREVIOUS MEETING

Appendix A

The minutes of the meeting held on 22 September 2016 are attached circulated and the Committee will be asked to confirm them as a correct record.

The minutes can be found on the Council's website at the following link:-

<http://www.cabinet.leicester.gov.uk:8071/ieListMeetings.aspx?CId=784&Year=0>

4. PETITIONS

The Monitoring Officer to report on the receipt of any petitions submitted in accordance with the Council's procedures.

5. QUESTIONS, REPRESENTATIONS, STATEMENTS OF CASE

The Monitoring Officer to report on the receipt of any questions, representations and statements of case submitted in accordance with the Council's procedures.

6. UPDATE ON LICENSING PROCESS FOR HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLE DRIVER LICENSING

Appendix B

The Director of Neighbourhood and Environmental Services submits a report on several changes in the process for licensing hackney carriage and private hire vehicle driver licences.

The Committee is asked to note the report.

**7. GUIDANCE ON CONVICTIONS - HACKNEY
CARRIAGE AND PRIVATE HIRE VEHICLE DRIVERS**

Appendix C

The Director of Neighbourhood and Environmental Services submits a report on changes to the guidance on convictions for hackney carriage and private hire drivers.

The Committee is asked to note the report.

8. ANY OTHER URGENT BUSINESS



Leicester
City Council

Minutes of the Meeting of the
LICENSING AND PUBLIC SAFETY COMMITTEE

Held: THURSDAY, 22 SEPTEMBER 2016 at 5:30 pm

P R E S E N T :

Councillor Thomas (Chair)
Councillor Hunter (Vice Chair)

Councillor Dr Barton

Councillor Cank

Councillor Shelton

* * * * *

1. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Byrne and Fonseca.

2. DECLARATIONS OF INTEREST

Members were asked to declare any interests they might have in the business on the agenda. No such declarations were made.

3. MEMBERSHIP OF THE COMMITTEE

It was noted that the membership of the Committee for the municipal year 2016/17 as approved at the Council meeting on 19 May 2016 is:-

Chair	Councillor Thomas
Co Vice-Chair	Councillor Byrne
Co Vice-Chair	Councillor Hunter

Councillor Barton
Councillor Cank
Councillor Cole
Councillor Fonseca
Councillor Shelton
Councillor Unsworth

4. TERMS OF REFERENCE

The Terms of Reference of the Committee that were approved by the Annual Council Meeting on 19 May 2016 were noted.

5. DATES OF COMMITTEE MEETINGS

The dates for Committee meetings for the municipal year 2016/17 approved by the Annual Council meeting on 19 April 2016 were noted as:-

Tuesday 25 October 2016

Tuesday 24 January 2017

Tuesday 9 May 2017

6. MINUTES OF PREVIOUS MEETING

RESOLVED:

that the minutes of the meeting held on 27 October 2015 be approved as a correct record.

7. PETITIONS

The Monitoring Officer reported that no petitions had been submitted in accordance with the Council's procedures.

8. QUESTIONS, REPRESENTATIONS, STATEMENTS OF CASE

The Monitoring Officer reported that no questions, representations and statements of case had been submitted in accordance with the Council's procedures.

9. OUTCOME OF APPEAL AGAINST REFUSAL OF PREMISES LICENCE - LICENSING ACT 2003 - CANDLE ROOMS, 25 GRAVEL STREET, LEICESTER

The Director of Neighbourhood and Environmental Services submitted a report providing the outcome of a recent appeal to the Magistrates' Court against a Licensing Hearing Sub-Committee's decision to refuse an application for a new premises licence. A copy of the Magistrates' decision was also submitted to Members for information. Members were asked to note the report.

Officers commented that:-

- a) That the applicant had appealed against a decision not to approve an application in the Cumulative Impact Zone.
- b) The Magistrates dismissed the appeal and granted most of the Council's costs. The Magistrates' decision was explained in full and it stated what the Magistrates had taken into account and what they had disregarded.
- c) The applicant's barrister had been critical about the Council's decision and felt that it was not entirely clear why the application had been refused.
- d) The Police had presented a number of crime statistics in relation to violent assaults thefts in the area which helped the Magistrates to set out the reasons for dismissing the appeal.
- e) The Magistrates had taken over two hours to make their decision and Members were reminded that they had 5 working days after the hearing to make their decision know to the applicants, but the practicalities of arranging a further meeting for the members involved was recognised.
- f) The Police would be considering how they make representations in the future on applications in a Cumulative Impact Zone. In this particular instance, the Police had clearly wanted to object to the application and had provided conditions they would have wished to see in place should Members have decided to approve the application. It was felt that this may not have been helpful in this instance as it provided a distraction to their primary standpoint of refusal.

In discussing the issues arising from the report Members commented that:-

- a) They recognised the importance of stating full reasons for their decisions.
- b) They felt that where the Police objected to an application in a Cumulative Impact Zone they should not also include potential conditions in the objection should Members be minded to approve an application. The Council's policy on Cumulative Impact Zones created a rebuttable presumption that an application for a new premises licence would be refused, unless the applicant could show that their premises were unlikely to add to the problems of saturation. The onus was clearly placed upon the applicant to demonstrate that their premises would not add to the existing cumulative impact and they would promote the licensing objectives should the application be granted.
- c) Should they be minded to approve an application in a Cumulative Impact Zone, Members could seek the views of the Police on any conditions they would wish to see attached to the approval at the meeting before issuing their decision.

It was also noted that the applicant was now in discussion with the Police on

operating the premises without the licence. Officers commented that if this subsequently gave rise for concerns Council officers had powers of entry to observe the operation of the premises and if this was refused the Police had powers of forced entry.

RESOLVED:

That the report be received and noted and that officers have further discussions with the Police in relation to the presentation of their objections to future applications within Cumulative Impact Zones, taking into account the comments made by Members.

10. SUMMARY UPDATE OF PENALTY POINTS SCHEME

The Director of Neighbourhood and Environmental Services submitted a report providing an update on the points scheme relating to licensed drivers of hackney carriages and private hire vehicles, which came into effect on 1st December 2015 on a one year trial basis. An appendix to the report gave details of the penalty points that had been issued in the previous 8 months. Members were asked to note the report.

Officers stated that the City Mayor would review the scheme after a year of operation. This trial scheme was in addition to the enforcement work carried out by officers. In some instances penalty points could be given to the driver in preference to seeking a prosecution which could be unsuccessful. The penalty points were awarded by the Head of Service and there was a right of appeal. If the points were subsequently awarded, they stayed on the driver's record for a period of 3 years. Should a driver accumulate more than 12 points, they would be referred to the Sub-Committee to determine if they were a fit and proper person to retain the licence. The Sub-Committee would have the options of suspending or revoking a licence or recommending additional training etc in instances where they decided to allow the continued entitlement to a licence.

In response to Members' questions on the report and appendix, officers commented that:-

- a) The two incidents of refusing to take a person with a dog had not involved a disabled person; as the Council's policy would have resulted in a prosecution in these circumstances.
- b) Penalty points had been awarded in 60 instances involving 60 different drivers.
- c) Failure to attend a 6 monthly MOT test was more prevalent amongst private hire vehicles whereas parking contraventions were more prevalent amongst hackney carriage drivers. It was hoped that these would reduce in time.
- d) Points for having an unroadworthy vehicle were only issued in instances where it was obvious to the driver that the vehicle had a serious fault.

Points were not issued for minor conditions that the driver would not be aware of until an MOT test failure.

- e) Once the authority was aware of a serious offence by a driver an emergency hearing would be held to consider suspending or revoking the licence.
- f) The Police notified the Council of serious offences committed by hackney carriage and private hire drivers and Police procedures also included asking detained persons if they had more than one occupation.

Members suggested that there may be a merit in reviewing the scheme after 2 years as this would provide a comparison of data to see if the policy was improving standards by reducing the number of penalty points awarded.

RESOLVED:

That the report be received and Members comments be noted.

11. CLOSE OF MEETING

The Chair declared the meeting closed at 6.35 pm.



Leicester
City Council

WARDS AFFECTED
Castle

FORWARD TIMETABLE OF CONSULTATION AND MEETINGS:
Licensing and Public Safety Committee

25 October 2016

**Update on licensing process for hackney carriage and private hire vehicle
driver licensing**

Report of the Director of Neighbourhood and Environmental Services

1. Purpose of Report

- 1.1. To inform the Licensing and Public Safety Committee of several changes in the process for licensing hackney carriage and private hire vehicle driver licences.

2. Recommendations

- 2.1. Members are asked to note the report.

3. Background

- 3.1 As a licensing authority, the council must be satisfied that every licensed taxi driver is a “fit and proper” person at the point of licensing. The legislation does not define “fit and proper” and so it is for each licensing authority to formulate it’s own policy.
- 3.2 Leicester City Council’s pre-licensing requirements are as follows:
- Medical
 - Criminal record check (DBS)
 - Practical driving test
 - Local ‘knowledge’ test
 - English speaking and listening
 - Driving licence check
 - Right to work in the UK
- 3.3 There are imminent developments in several of these areas, which members should be aware of.

4 Practical driving test

- 4.1 The Department of Transport issues best practice guidance to licensing authorities, in which it says that taxi applicants should be required to pass a practical driving assessment with the Driving Standards and Vehicle Agency (DVSA). On 31 August 2016 the DVSA wrote to all licensing authorities to say that they would be withdrawing this assessment from 31 December 2016. Unfortunately due to the booking process and waiting time this means that applicants are already unable to book an assessment.
- 4.2 Officers are in the process of procuring a replacement provider that is accredited to the same standard. It is hoped that this can be completed by December but in the meantime taxi driver applicants will be unable to take a practical driving assessment. This is regrettable but unfortunately the announcement from the DVSA was completely unexpected. Most other licensing authorities are in the same situation.

5 Local 'knowledge' test

- 5.1 The 'knowledge' test has been in use for many years. It is a paper based test designed to establish that applicants have a reasonable knowledge of the streets and places of Leicester city. There is a long waiting list to take this test and in spite of various attempts to reduce the waiting time any reductions are short-lived. In addition, there have been a number of complaints about taxi drivers not knowing the city well enough to provide a reasonable service to the travelling public.
- 5.2 A computer based solution is being developed in conjunction with the council's own IT department. The software will generate a set number of multiple choice questions from different categories, such as the city centre, greater Leicester, customer service and the law. The test will be timed and marked automatically and candidates will be given the results straight away. It will also upload to the licensing section so that officers can take appropriate action according to whether the test was passed or failed.
- 5.3 Significant benefits of the new system will be that:
- every test will be different,
 - we will be able to test more candidates at a time and therefore reduce waiting times.
- 5.4 The software has been developed and is currently undergoing testing, as well as being populated with suitable questions.

6 Online application for new drivers

- 6.1 The traditional method of applying for a licence is to submit a paper application. However, it is preferable to move to online applications where possible for several reasons, including:

- convenience – the applicant does not have to print a form and physically submit it
- accuracy – an online form will prompt the applicant for any missing information
- payment – payment is made as part of the overall process
- speed – an application is submitted, paid for and acknowledged in one transaction, and quickly leads on to the next stage
- channel shift – a reduction in face to face enquiries saves staff time in the Customer Service Centre, and reduces the volume of people in the centre.

6.2 The council's IT team have developed an online application process for new taxi drivers. The process will replace the existing application process, and will allow applications to be submitted at the customer's convenience. The online form will collect all of the details on the current form and take the appropriate payment. It will send automated responses confirming receipt of the application and payment as well as giving details of the next steps. In addition it will send a unique message to each applicant giving them a link to the online DBS application process. This will allow them two weeks to submit an online DBS application, after which they will have to attend the Customer Service Centre to bring proof of their identity. This visit will be shorter than the current visit to submit a full application, and will be an opportunity to bring other documents required for the application as well as to book an appointment for the 'knowledge' test.

7 CSE awareness course

7.1 The council introduced a requirement for licensed taxi drivers to attend child sexual exploitation training within three months of being first licensed or re-licensed. This was introduced from November 2015 and is currently something that only needs to be done once by each driver.

7.2 1,164 drivers have completed the awareness training since November 2015, and some had completed it previously through their work as drivers for school contracts. There are approximately 800 licensed drivers still to attend. The training has received a positive response from drivers, and feedback has been good. Once all of the existing drivers have been trained the number of sessions required will reduce, because it will only be new drivers who need to attend.

7.3 The awareness training was delivered by the provider who had been contracted to provide training to council staff. That contract expires in October 2016 and therefore a procurement exercise has been undertaken for a new contract. The same contractor was successful and the new contract commences in November 2016.

8 Financial, Legal and Other Implications

Financial Implications

- 8.1 There are no significant financial implications arising directly from this report, although the moves on-line should lead to efficiency gains.

Colin Sharpe, Head of Finance, ext. 37 4081

Legal Implications

- 8.2 The overriding consideration of the Council is to protect the safety of the public. The Council must be satisfied that the drivers are 'fit and proper persons'. It must also be satisfied that licence holders are suitable, safe drivers with good driving records and adequate experience. Drivers should also be courteous, honest, and both mentally and physically fit.
- 8.3 Section 51 of the Local Government (Miscellaneous Provisions) Act 1976 states that the Council shall on receipt of an application from any person to drive private hire vehicles, grant to that person a driver's licence unless they are satisfied that the applicant is not a fit and proper person to hold a driver's licence.
- 8.4 Section 59 of the Local Government (Miscellaneous Provisions) Act 1976 states that the Council shall not grant a licence to drive a Hackney Carriage unless they are satisfied that the applicant is a fit and proper person to hold a driver's licence.

Katherine Jamieson, Solicitor - Legal Services

9 Other Implications

OTHER IMPLICATIONS	YES/ NO	Paragraph/References Within the Report
Equal Opportunities	No	
Policy	Yes	The decisions at the hearing and at the appeal are partly based on the council's licensing policy.
Sustainable and Environmental	No	
Crime and Disorder	No	
Human Rights Act	No	
Elderly/People on Low Income	No	
Corporate Parenting	No	
Health Inequalities Impact	No	

10 Background Papers – Local Government Act 1972

None

11 Consultations

None

12 Report Author

Rachel Hall, Licensing Team Manager

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Leicester
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WARDS AFFECTED
All

FORWARD TIMETABLE OF CONSULTATION AND MEETINGS:
Licensing and Public Safety Committee

25 October 2016

Guidance on convictions – hackney carriage and private hire vehicle drivers

Report of the Director of Neighbourhood and Environmental Services

1. Purpose of Report

- 1.1. To inform the Licensing and Public Safety Committee of changes to the guidance on convictions for hackney carriage and private hire vehicle drivers.

2. Recommendations

- 2.1. Members are asked to note the report.

3. Background

- 3.1 The council takes account of previous convictions when deciding whether or not an applicant is a fit and proper person to be a hackney carriage / private hire vehicle driver. The council works to pre-determined guidance on the relevance of such convictions.

4 Changes to the guidance on convictions

- 4.1 At a recent appeal, the court commented on some aspects of the guidance document that appeared to be inconsistent. The document has been reviewed, and officers have identified additional items that could be clarified.

- 4.2 The following changes will be made to the guidance:

- Illegal plying for hire will be listed as a specific offence;
- Dangerous driving will be in a more serious category, on a par with drink driving;
- No insurance was referred to by the court, but officers are of the opinion that it is in the correct category;
- Refusal to transport a passenger with a guide dog (section 170 of the Equalities Act 2010) will be listed as a specific offence;

- 4.3 The revised guidance document is attached at Appendix A for information.

5 Financial, Legal and Other Implications

Financial Implications

- 5.1 There are no significant financial implications arising from this report.

Colin Sharpe, Head of Finance, ext. 37 4081

Legal Implications

- 5.2 The overriding consideration of the Council is to protect the safety of the public. The Council must be satisfied that the drivers are 'fit and proper persons'. It must also be satisfied that licence holders are suitable, safe drivers with good driving records and adequate experience. Drivers should also be courteous, honest, and both mentally and physically fit.
- 5.3 Section 51 of the Local Government (Miscellaneous Provisions) Act 1976 states that the Council shall on receipt of an application from any person to drive private hire vehicles, grant to that person a driver's licence unless they are satisfied that the applicant is not a fit and proper person to hold a driver's licence.
- 5.4 Section 59 of the Local Government (Miscellaneous Provisions) Act 1976 states that the Council shall not grant a licence to drive a Hackney Carriage unless they are satisfied that the applicant is a fit and proper person to hold a driver's licence.
- 5.5 Section 61 states that the Council may suspend or revoke or (on application therefor under section 46 of the Act of 1847 or section 51 of this Act, as the case may be) refuse to renew the licence of a driver of a hackney carriage or a private hire vehicle on any of the following grounds:—
- (a) that he has since the grant of the licence—
 - (i) been convicted of an offence involving dishonesty, indecency or violence; or
 - (ii) been convicted of an offence under or has failed to comply with the provisions of the Act of 1847 or of this Part of this Act; or
 - (b) any other reasonable cause.
- 5.6 Guidelines on convictions apply to applications for the grant and renewal of licences and to the suspension or revocation of a licence. Each case will be decided on its own merits.

Katherine Jamieson, Solicitor – Legal Services

6 Other Implications

OTHER IMPLICATIONS	YES/ NO	Paragraph/References Within the Report
Equal Opportunities	No	
Policy	Yes	The report refers to the council's policy on licensing drivers of hackney carriages and private hire vehicles.
Sustainable and Environmental	No	
Crime and Disorder	No	
Human Rights Act	No	
Elderly/People on Low Income	No	
Corporate Parenting	No	
Health Inequalities Impact	No	

7 Background Papers – Local Government Act 1972

None

8 Consultations

None

9 Report Author

Rachel Hall, Licensing Team Manager

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GUIDELINES ON RELEVANCE OF CONVICTIONS

HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLE DRIVERS

GENERAL POLICY

1. These guidelines apply to applications for the grant and renewal of licences and to the suspension or revocation of a licence.
2. Each case will be decided on its own merits.
3. The overriding consideration shall be the protection of the public and all other matters, including unemployment, shall be secondary to the public safety factor.
4. In exceptional circumstances, the Licensing Committee may decide to issue a licence where the Guidelines on Convictions are not met.

GUIDELINES ON CONVICTIONS

Category	Offence code	Convictions included	Requirement
Minor traffic convictions	SP10	Exceeding goods vehicle speed limit	Less than 12 penalty points on licence during last three years
	SP20	Exceeding speed limit for type of vehicle	
	SP30	Exceeding statutory speed limit	
	SP40	Exceeding passenger vehicle speed limit	
	SP50	Exceeding speed limit on a motorway	
	SP60	Undefined speed limit offence	
	TS10	Failing to comply with traffic lights	
	TS20	Failing to comply with double white lines	
	TS30	Failing to comply with stop sign	
	TS40	Failing to comply with direction of a constable or traffic warden	
	TS50	Failing to comply with a traffic sign (excluding 'Stop' signs, traffic lights)	
	TS60	Failing to comply with a school crossing patrol sign	
	TS70	Undefined failure to comply with a traffic directions sign	
	MW10	Contravention of Special Roads 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 PL20 PL30 PL40 PL50	Driving without 'L' plates Not accompanied by a qualified person Carrying a person not qualified Drawing an unauthorised trailer Undefined failure to comply with conditions of a provisional licence	
Secondary offences	CU10 CU20 CU30 CU40 CU50 CU60 MS10 MS20 MS30 MS40 MS50 MS60 MS70 MS80 MS90	Using a vehicle with defective brakes 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 Using a vehicle with defective tyre(s) Using a vehicle with defective steering Causing or likely to cause danger by reason of load or passengers Undefined failure to comply with Construction & Use regulations Leaving a vehicle in a dangerous position Unlawful pillion riding Play street offences Driving with uncorrected defective eyesight or refusing to submit to a test Motor racing on a highway Offences not covered by other codes Driving with uncorrected defective eyesight Refusing to submit to an eyesight test Failure to give information as to identity of driver etc	Two years free from conviction
Major traffic offences	AC10 AC20 AC30 CD10 CD20 CD30	Failing to stop after an accident Failing to give particulars or to report accident within 24 hours Defined accident offences Driving without due care and attention Driving without reasonable consideration for other road users Driving without due care and attention or without reasonable consideration for other road users	Three years free from conviction
Serious traffic offences	BA10 BA30 DD40 DR10 DR20 DR30 DR40 DR50 DR60 DR70 DR80 DR90	Driving while disqualified by order of court Attempting to drive while disqualified by order of court Dangerous driving Driving or attempting to drive with alcohol level above limit Driving or attempting to drive while unfit through drink Driving or attempting to drive then failing to provide a specimen for analysis In charge of a vehicle while alcohol level above limit In charge of a vehicle while unfit through drink Failure to provide a specimen for analysis in circumstances other than driving or attempting to drive Failing to provide a specimen for breath test Driving or attempting to drive when unfit through drugs In charge of a vehicle when unfit through drugs	Five years free from conviction

	IN10	Using a vehicle uninsured against third party risk	
Taxi offence	Illegal plying for hire Refusing to transport a passenger with an assistance dog		Two years free from conviction
Drugs	A conviction for an offence under the Misuse of Drugs Act 1971		Five years free from conviction
Violence	Offences Against the Person Act 1861		Five years free from conviction
Sexual offences	A conviction for an offence under the: <ul style="list-style-type: none"> • Sexual Offences Act 1956 • Indecency with Children Act 1960 • Protection of Children Act 1978 • Sexual Offences (Conspiracy and Incitement) Act 1996 • Street Offences Act 1959 • Sexual Offences Act 1967 • Sexual Offences (Amendment) Act 1976 • Criminal Law Act 1977 • Sexual Offences Act 1985 • Criminal Justice Act 1988 • Sexual Offences (Amendment) Act 1992 • Sexual Offences Act 1993 • Sexual Offences (Protected Material) Act 1997 • Sexual Offences Act 1997 • Sexual Offences (Amendment) Act 2000 • Sexual Offences Act 2003 		An applicant should have NO convictions for these offences
Dishonesty	A conviction for an offence under the: <ul style="list-style-type: none"> • Theft Act 1968 • Theft Act 1978 • Forgery and Counterfeiting Act 1981 		Five years free from conviction
Serious offences	Any conviction that carries a mandatory or discretionary life sentence		An applicant should have NO convictions for these offences
Other offences	Other offences may become relevant depending on their nature, type and circumstances. The period free from conviction required will vary accordingly		Dependant on circumstances

