

Cabinet Member for City Services  
Licensing and Regulatory Committee

14 April 2021  
27 April 2021

**Name of Cabinet Member:**

Cabinet Member for City Services – Councillor P Hetherton

**Director Approving Submission of the report:**

Director of Streetscene and Regulatory Services

**Ward(s) affected:**

All Wards

**Title:**

Statutory Taxi and Private Hire Vehicle Standards

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**Is this a key decision?**

No - although the proposals affect more than two electoral wards, the impact is not expected to be significant.

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**Executive Summary:**

This report provides information for the Cabinet Member for City Services of the recommendations made by the Department for Transport's "Statutory Taxi and Private Hire Vehicle Standards", and how these recommendations will impact Coventry City Council's Taxi Licensing processes.

The report seeks approval for 12-week public consultation on the amendments required to the existing City Council Taxi Licensing requirements to bring them in-line with the above new standards.

**Recommendations:**

Cabinet Member for City Services is recommended to:

- 1) Approve a 12-week public consultation on the proposals to amend the Council's current Taxi Licensing requirements to ensure that they are in line with the standards required by the Department for Transport.

Licensing and Regulatory Committee is recommended to:

- 1) Note the contents of the report and, if appropriate, forward any comments to the Cabinet Member for City Services.

**List of Appendices included:**

Appendix A – List of Consultees

Appendix B – Guidelines on the Relevance of Convictions (CCC)

**Background papers:**

None

**Other useful documents**

[Department for Transport Statutory Taxi & Private Hire Vehicle Standards](#)

[LGA Taxi and PHV licensing Councillors' handbook](#)

**Has it been or will it be considered by Scrutiny?**

No

**Has it been or will it be considered by any other Council Committee, Advisory Panel or other body?**

No

**Will this report go to Council?**

No

Report title: **Statutory Taxi and Private Hire Vehicle Standards**

## **1. Context (or background)**

- 1.1 The Department for Transport (DfT) published its 'Statutory Taxi & Private Hire Vehicle Standards' on 21<sup>st</sup> July 2020. A link to the full document can be found via the link in other useful documents above. The recommendations in the DfT report are designed to regulate better the taxi and private hire vehicle sector through the development of a national set of core common minimum standards.
- 1.2 Published by the Secretary of State for Transport under section 177(1) of the Policing and Crime Act 2017 the document sets out a framework of policies that any licensing authority in England and Wales "must have regard" to when exercising their functions.
- 1.3 Standards detailed in this document replace previous 2010 Best Practice Guidance issued by the DfT and are expected to be implemented unless there is a compelling local reason not to. Failure to adhere to the standards without significant justification is described as likely to be detrimental to the Councils' defence of any legal challenge in relation to its contents.
- 1.4 Some of the standards highlighted in the DfT document are already covered in Coventry's current processes and this report highlights the recommendations that would require amendment to current policy and practice.
- 1.5 Throughout this document the term 'taxi' is used to describe hackney carriages in line with the DfT document.

## **Proposals**

### **2. Taxi Licensing Policies**

- 2.1 The DfT recommends that licensing authorities make publically available a cohesive policy document that brings together all of their procedures in relation to the licensing of taxis and private hire vehicles.
- 2.2 Following the outcome of this consultation it is proposed that the agreed changes will be incorporated with existing processes into a comprehensive 'Statement of Licensing Policy' for taxis and private hire vehicles and drivers which will be publically available via the Councils website. Existing requirements will be amended as required to reflect the phraseology and requirements from the DfT document and to ensure consistency.
- 2.3 As highlighted in the DfT report the Statement of Licensing Policy will be reviewed as a minimum of every five years or as required in line with industry, local or legislative requirements. This similar to the process already followed for alcohol and entertainment licensing policy, which Licensing and Regulatory Committee will already be familiar with.

### **3. The Disclosure and Barring Service (DBS)**

- 3.1 Licensed drivers in Coventry currently have to undergo an enhanced DBS check upon first application and then every three years in line with the renewal of their driver licence at a cost of £54.
- 3.2 The DfT report recommends that drivers should undergo enhanced DBS checks at least every six months to enable the licensing authority to routinely check for new information.
- 3.3 Across the three-year licensing period this change would represent an increase in costs to drivers of £270 (based on current prices). Alternatively, drivers can subscribe to the Disclosure and Barring Service Update Service at a cost of £13 per year enabling the Council to check the status of a driver's certificate online at any time.
- 3.4 Drivers not wanting or able to subscribe to the Disclosure and Barring Service Update Service would be required to undertake a full enhanced DBS check every six months.
- 3.5 In addition the standards require that vehicle proprietors should also undertake a basic disclosure from the DBS annually (where they are not also drivers).
- 3.6 Failure to provide a valid DBS certificate within the required timescales would result in a referral to the Licensing and Regulatory Committee for a review of the licence.
- 3.7 In order to ensure that licence holders continue to comply with the standards required they will be required to notify the licensing authority within 48 hours of: an arrest and release, charge or conviction of any sexual offence, any offence involving dishonesty or violence and any motoring offence. This would replace the current requirements which for taxis requires drivers to notify of convictions upon renewal of their licence and for private hire drivers within one week of conviction.
- 3.8 The DfT report highlights the importance of sharing critical information with neighbouring local authority licensing committees to aid consistency and robustness in decision making. The DfT report recommends that licensing authorities should use national databases to share information about licence refusals and revocations to mitigate the risk of non-disclosure of relevant information by applicants. This report proposes that the City Council use the NR3 register commissioned by the National Anti-Fraud Network of which the Council are a member resulting in no additional costs.

#### **4. CCTV in Vehicles**

- 4.1 The DfT considers that the use of CCTV can provide a safer environment for the benefit of both the drivers and users of taxis / private hire vehicles. The document requires all licensing authorities to consult to identify if there are local circumstances which would indicate that CCTV camera in vehicles would have a positive or negative effect on users and drivers.
- 4.2 It is proposed therefore that the use of CCTV cameras in taxis and private hire vehicles will be included in the public consultation in order to identify if making their use mandatory should be implemented into future vehicle licensing policy.
- 4.3 Further information and guidance on the DfT requirements for the use of CCTV in taxi's and private hire vehicles can be found in the DfT report via the link in other useful documents (Annex – CCTV).

#### **5. Private Hire Operators**

5.1 The DfT standards recommend the following conditions for holders of operator's licences which are not currently required:

- a. Basic DBS checks to be carried out on initial application and annually thereafter for directors and partners in companies that hold operator licences (where they are not licensed drivers).
- b. Operators to have a process in place to monitor the employment of ex-offenders for roles with responsibility for taking bookings or dispatching vehicles on their behalf which must be provided and updated throughout the licence period and available for consideration by the licensing team at any time.
- c. Where a fare is subcontracted the original operator must be able to evidence that comparable protections are applied by the company to which they outsource the fare.

## **6. Enforcing the Licensing Regime**

- 6.1 The DfT report recommends that licensing authorities should, where required, jointly authorise officers from other authorities to be able to take compliance and enforcement action against licensees from outside their authority area. Such an agreement would allow authorities to take action against vehicles and drivers that are licensed by another authority when they cross over boundaries. A model for agreeing joint authorisation can be seen in the LGA Councillors' Handbook via the link in other useful documents pg. 24 – 25,
- 6.2 Guidelines are provided to the Licensing and Regulatory Committee to assist when assessing whether an individual is 'fit and proper' to hold a taxi or private hire vehicle licence. The Council's guidelines on the relevance of convictions was adopted on 12<sup>th</sup> December 2006 (Appendix B) . The DfT report provides further information on considerations for the assessment of previous convictions and it is proposed to amend and update the current guidelines to reflect the recommendations in the DfT report (pg. 35) and to assure a consistent approach nationally.

## **7. Consultation**

- 7.1 It is proposed that a 12-week public consultation be undertaken on the changes to current policy and process required to meet the standards highlighted in this report. A full list of consultees can be found in Appendix A.
- 7.2 The consultation will include identification around the considered requirements to make the use of CCTV cameras in licensed taxis and private hire vehicles a mandatory licensing requirement.

## **8. Timetable for implementing this decision**

- 8.1 Following the closure of the consultation it is proposed to provide the findings in a further report to the Licensing and Regulatory Committee for approval prior to implementation.
- 8.2 All Councils within the West Midland Combined Authority (WMCA) sit on a Taxi Harmonisation Board. Subject to committee approval the board have agreed in principle to adopt the standards and principles proposed in the DfT report as a minimum in their taxi licensing processes ensuring maximum consistency across the region. The only exception to this is the mandatory requirement for CCTV which will be decided locally following individual consultation.

## **9. Comments from Director of Finance and Director of Law and Governance**

## **9.1 Financial implications**

Taxi Licensing is a ring-fenced budget and all costs are recovered via charges to the Taxi Trade. Any costs associated with this consultation exercise will be limited to officer time and will not result in additional charges. Any ongoing impact will be addressed in future fee reviews.

## **9.2 Legal implications**

The statutory guidance is the minimum to be expected in order to regulate the taxi and private hire vehicle sector.

Failure to adhere to the standards without significant justification is described as likely to be detrimental to the Council's defence of any legal claim in relation to its contents.

## **10. Other implications**

### **10.1 How will this contribute to the Council Plan ([www.coventry.gov.uk/councilplan/](http://www.coventry.gov.uk/councilplan/))?**

It will help to facilitate improvements in the taxi services available to the people of Coventry, which will contribute towards ensuring that drivers are fit and proper and that passenger and driver safety is maximised.

### **10.2 How is risk being managed?**

Through established reporting and governance arrangements.

### **10.3 What is the impact on the organisation?**

None

### **10.4 Equality Impact Assessment (EIA)**

None

### **10.5 Implications for (or impact on) climate change and the environment**

None

### **10.6 Implications for partner organisations?**

None

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Cath Crosby	Lead Accountant – Business Partnering	Finance	08/03/21	10/03/21
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This report is published on the council's website: [www.coventry.gov.uk/councilmeetings](http://www.coventry.gov.uk/councilmeetings)

## **Appendix A – Proposed Consultees**

- All Licensees (Drivers, Vehicle Proprietors & Operators)
- Taxi and PHV passengers
- Campaign for Better Transport
- Children's Safeguarding
- Council of Disabled People.
- Coventry and Warwickshire Chamber of Commerce.
- Coventry Society for the Blind.
- Coventry University.
- Coventry Wheelchair User Group.
- Business Improvement District
- GMB Union
- LEVC Vehicles.
- Learning Disabilities Partnership.
- NHS Coventry.
- Nuneaton & Bedworth Borough Council
- Nissan.
- Older Person's Partnership.
- Physical & Sensory Impairment Partnership.
- Routeforward.
- Licensing Technical Group (Warwickshire)
- Taxi Harmonisation Group (WMCA).
- Traffic Commissioner for the West Midlands.
- University of Warwick.
- Unite Union
- Unison Union
- Warwickshire & Coventry Federation of Small Businesses.
- West Midlands Fire Service
- West Midlands Police



## **Appendix B - Guidelines on the Relevance of Convictions 2006 (CCC)**

# **Coventry City Council Licensing and Regulatory Committee**

## **1 Guidelines on the Relevance of Convictions etc**

The following are the guidelines adopted by the City Council on 12 December 2006, regarding the relevance of criminal convictions, cautions, fixed penalty endorsements, complaints and false declarations to becoming or remaining licensed as a Hackney Carriage or Private Hire driver in Coventry.

### **General Principles**

- 1.1. Each case will be decided on its own merits.
- 1.2 The overriding consideration shall be the protection of the public and all other matters, including unemployment, shall be secondary to the public safety factor.
- 1.3 An individual with a conviction for one or more criminal offences need not be permanently barred from obtaining a licence but should be expected to remain free of further convictions for the periods indicated in these guidelines before an application is favourably entertained. In making a decision, the licensing authority shall take into consideration the number of convictions/cautions, the nature and circumstances of each offence, the age of each conviction/caution, the age of the individual at that time and whether the individual's circumstances have since changed, any mitigating circumstances, any aggravating factors and any other relevant factors.
- 1.4 Offences which took place many years in the past may often have less relevance than recent offences. Similarly, a series of offences over a period of time is more likely to give cause for concern than an isolated minor conviction. Offences where the victim was a passenger will be regarded with particular concern.
- 1.5 The authority generally considers that offences committed by licensees should be regarded more seriously than offences committed by individuals when not licensed. This is because current licensees have previously been judged as fit and proper and are aware of the standards required of them and are expected to maintain those high standards of personal conduct.
- 1.6 Convictions/cautions are considered equally relevant to both hackney carriage and private hire drivers. Cautions are treated in a similar way to convictions since an individual must have admitted the offence in question in order to have received a caution.
- 1.7 Where the following specific guidelines indicate that the authority may suspend a licence it may do so in circumstances where, despite being satisfied as to an individual's basic suitability to be licensed, the authority still feels it has reasonable cause to strongly register its disapproval of an individual's conduct and to discourage any future repetition of such conduct.
- 1.8 These guidelines may be referred to when considering complaints against individuals, or additional information included in the CRB [DBS] disclosure by the police, where the nature of that complaint or additional information is of a similar nature to the matters covered by these guidelines.
- 1.9 The guideline at F6 may be referred to when considering cases of false declaration where the individual has not been prosecuted.

## Specific Guidelines

- 1.10 The following specific guidelines afford an indication of how particular cases involving the consideration of convictions or cautions are likely to be dealt with. Where an individual has more than one conviction/caution recorded against them, the authority will consider the number and nature of convictions and may not necessarily regard the period of time that has elapsed since the last conviction as being sufficient to demonstrate the individual's fitness to be licensed. The following guidelines are not binding on the authority and it is free to depart from them where the particular circumstances of an individual case make it appropriate to do so:-

### A Traffic Offences

Hackney Carriage and Private Hire Vehicle Drivers are professional drivers. In addition to their duty of care to other road users, they have responsibility for the safe transport of their passengers, and traffic offences should be considered carefully.

OFFENCES		COMMITTED WHILST NOT LICENSED BY COVENTRY CITY COUNCIL		COMMITTED WHILST LICENSED BY COVENTRY CITY COUNCIL		
		Period since Conviction, Caution or completion of Custodial Sentence during which the guideline will apply	Guideline for Applicant (First Grant/Re-Grant)	Period since Conviction, Caution or completion of Custodial Sentence during which the guideline will apply	Guideline for Applicant (Renewal/First Grant/Re-Grant)	Guideline for Licensee (Current licence holder)
A.1	Minor speeding offences up to 3 points. Minor motorway offences. Pedestrian crossings. Traffic direction & signs.	3 years.	Grant with verbal warning. (Normally delegated to officers)	3 years.	Grant with verbal warning. (Normally delegated to officers)	Verbal warning. (Normally delegated to officers)
A.2	Major speeding offences 4 to 6 points. Major motorway offences. Construction and Use offences. Licence offences. Mobile Phone offences. Leaving a vehicle in a dangerous position. Defective eyesight.	3 years.	Grant with written warning.	4 years.	Grant with written warning or grant and suspend for up to 3 months*.	Written warning or suspend for up to 3 months.
A.3	Insurance offences. Disqualified Driver offences. Aggravated taking of a vehicle.	3 years.	Grant with written warning or grant and suspend for	4 Years.	Grant with written warning or grant and suspend for up	Written warning or suspend for up to 4 months.

			up to 3 months*.		to 4 months*.	
A.4	Careless driving offence. Failing to report/stop after an accident.	3 years.	Grant with written warning or grant and suspend for up to 4 months*.	4 Years.	Grant with written warning or grant and suspend for up to 6 months*.	Written warning or suspend for up to 6 months.
A.5	Disqualification due to totting up.	2 years from end of disqualification period.	Refuse.	3 years from end of disqualification period.	Refuse.	Revoke.
A.6	Reckless/Dangerous Driving offences.	3 years.	Refuse.	4 Years.	Refuse.	Revoke.
A.7	Drink or Drugs driving offences.	3 years.	Refuse.	4 years.	Refuse.	Revoke.

\* Subject to any right of appeal, a period of suspension shall run from the date of the Licensing Committee hearing or the date by which all application requirements have been met, whichever is the later.

## B Drug Offences

Drug related offences should be carefully considered as Hackney Carriage and Private Hire Vehicle Drivers are professional drivers and are expected to be fully in control of themselves and their vehicles whilst working or they may have close contact with vulnerable members of the public, e.g. children, young adults and addicts.

OFFENCES		COMMITTED WHILST NOT LICENSED BY COVENTRY CITY COUNCIL		COMMITTED WHILST LICENSED BY COVENTRY CITY COUNCIL		
		Period since Conviction, Caution or completion of Custodial Sentence during which the guideline will apply	Guideline for Applicant (First Grant/Re-Grant)	Period since Conviction, Caution or completion of Custodial Sentence during which the guideline will apply	Guideline for Applicant (Renewal/First Grant/Re-Grant)	Guideline for Licensee (Current licence holder)
B.1	Drug conviction/caution.	4 years.	Refuse.	5 years.	Refuse.	Revoke.

## C Sexual Offences

As Hackney Carriage and Private Hire Vehicle Drivers often carry unaccompanied or vulnerable passengers, applicants with convictions/cautions for sexual offences should be

refused a licence until they can show a substantial period free of such conviction/caution.

Licensees should have their licence revoked and not be re-granted a licence until a similar substantial period has elapsed.

OFFENCES	COMMITTED WHILST NOT LICENSED BY COVENTRY CITY COUNCIL		COMMITTED WHILST LICENSED		
	Period since Conviction, Caution or completion of Custodial Sentence during which the guideline will apply	Guideline for Applicant (First Grant/Re-Grant)	Period since Conviction, Caution or completion of Custodial Sentence during which the guideline will apply	Guideline for Applicant (Renewal/First Grant/Re-Grant)	Guideline for Licensee (Current licence holder)
C.1 Any sexual offence.	10 years.	Refuse.	15 years.	Refuse.	Revoke.

#### D Violence Offences

As Hackney Carriage and Private Hire Vehicle Drivers have close contact with the public, applicants with convictions/cautions for violence offences should be refused a licence until they can show a substantial period free of such behaviour. Licensees should have their licence revoked and not be re-granted a licence until a similar substantial period has elapsed.

OFFENCES	COMMITTED WHILST NOT LICENSED BY COVENTRY CITY COUNCIL		COMMITTED WHILST LICENSED BY COVENTRY CITY COUNCIL		
	Period since Conviction, Caution or completion of Custodial Sentence during which the guideline will apply	Guideline for Applicant (First Grant/Re-Grant)	Period since Conviction, Caution or completion of Custodial Sentence during which the guideline will apply	Guideline for Applicant (Renewal/First Grant/Re-Grant)	Guideline for Licensee (Current licence holder)

D.1	Assault/Battery.	3 years.	Grant and suspend for up to 4 months* or Refuse.	4 years.	Grant and suspend for up to 6 months* or Refuse.	Suspend for up to 6 months or Revoke.
D.2	Grievous bodily harm.	4 years.	Refuse.	5 years.	Refuse.	Revoke.
D.3	Wounding.	5 years.	Refuse.	6 years.	Refuse.	Revoke.
D.4	Threats to kill.	7 years.	Refuse.	8 years.	Refuse.	Revoke.
D.5	Manslaughter/Murder.	10 years	Refuse.	15 years	Refuse.	Revoke.

- \* Subject to any right of appeal, a period of suspension shall run from the date of the Licensing Committee hearing or the date by which all application requirements have been met, whichever is the later.

## E Dishonesty Offences

Hackney Carriage and Private Hire 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 driver to defraud the public by demanding more than the legal fare etc. Overseas visitors can be confused by the change in currency and be considered “fair game” for an unscrupulous driver. For these reasons, a serious view should be taken of any conviction involving dishonesty.

<b>OFFENCES</b> E.g. Theft, Burglary, Handling, Fraud, Forgery, Deception, Making a false statement, Using a conveyance without authority, etc.		<b>COMMITTED WHILST NOT LICENSED BY COVENTRY CITY COUNCIL</b>		<b>COMMITTED WHILST LICENSED BY COVENTRY CITY COUNCIL</b>		
		Period since Conviction, Caution or completion of Custodial Sentence during which the guideline will apply	Guideline for Applicant (First Grant/Re-Grant)	Period since Conviction, Caution or completion of Custodial Sentence during which the guideline will apply	Guideline for Applicant (Renewal/First Grant/Re-Grant)	Guideline for Licensee (Current licence holder)
E.1	Any dishonesty offence where a non- custodial sentence was imposed.	3 years.	Grant and suspend for up to 4 months* or Refuse.	4 years.	Grant and suspend for up to 6 months* or Refuse.	Suspend for up to 6 months or Revoke.

E.2	Any dishonesty offence where a custodial sentence was imposed.	4 years.	Refuse.	5 years.	Refuse.	Revoke.
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- \* Subject to any right of appeal, a period of suspension shall run from the date of the Licensing Committee hearing or the date by which all application requirements have been met, whichever is the later.

#### F Hackney Carriage/Private Hire Offences

Hackney Carriage and Private Hire Drivers are expected to operate within the laws governing their trade and comply with the requirements and policies of Coventry City Council.

OFFENCES Covered by the:- Local Government (Miscellaneous Provisions) Act 1976. Town Police Clauses Act 1847 Any relevant Coventry Local Byelaws.		COMMITTED WHILST NOT LICENSED BY COVENTRY CITY COUNCIL		COMMITTED WHILST LICENSED BY COVENTRY CITY COUNCIL		
		Period since Conviction, Caution or completion of Custodial Sentence during which the guideline will apply	Guideline for Applicant (First Grant/Re-Grant)	Period since Conviction, Caution or completion of Custodial Sentence during which the guideline will apply	Guideline for Applicant (Renewal/First Grant/Re-Grant)	Guideline for Licensee (Current licence holder)
F.1	Any other contravention not mentioned below.	3 years.	Grant with written warning or grant and suspend for up to 3 months*.	3 years.	Grant with written warning or grant and suspend for up to 3 months*.	Written warning or suspend for up to 3 months.
F.2	Plying for hire when licensed as a Coventry private hire driver.	N/A.	N/A.	3 years.	Grant with written warning or grant and suspend for up to 3 months*.	Written warning or suspend for up to 3 months.
F.3	Not wearing ID.	3 years.	Grant with written warning or grant and suspend for up to 6 months*.	3 years.	Grant with written warning or grant and suspend for up to 6 months*.	Written warning or suspend for up to 6 months.
F.4	Plying for hire whilst licensed in another district.	3 years.	Refuse.	N/A.	N/A.	N/A.
F.5	Obstructing an officer.	3 Years.	Refuse.	3 years.	Refuse.	Revoke.

F.6	False Declaration.	3 Years.	Grant and suspend for up to 6 months* or Refuse.	3 years.	Grant and suspend for up to 6 months* or Refuse.	Suspend for up to 6 months or Revoke.
F.7	Driving without any private hire or hackney carriage driver's licence.	5 Years.	Refuse.	N/A.	N/A.	N/A.

\* Subject to any right of appeal, a period of suspension shall run from the date of the Licensing Committee hearing or the date by which all application requirements have been met, whichever is the later.

## G Other Offences

This section includes offences which do not easily fit within one of the above categories but are considered relevant to the suitability of an individual to hold a Hackney Carriage and/or Private Hire Drivers licence.

OFFENCES		COMMITTED WHILST NOT LICENSED BY COVENTRY CITY COUNCIL		COMMITTED WHILST LICENSED BY COVENTRY CITY COUNCIL		
		Period since Conviction, Caution or completion of Custodial Sentence during which the guideline will apply	Guideline for Applicant (First Grant/Re-Grant)	Period since Conviction, Caution or completion of Custodial Sentence during which the guideline will apply	Guideline for Applicant (Renewal/First Grant/Re-Grant)	Guideline for Licensee (Current licence holder)
G.1	Perverting the course of justice.	4 years.	Refuse.	5 years.	Refuse.	Revoke.
G.2	Arson.	4 years.	Refuse.	5 years.	Refuse.	Revoke.
G.3	Possession of a weapon.	4 years.	Refuse.	5 years.	Refuse.	Revoke.
G.4	Public order offences including Riot, Violent Disorder, Affray, Harassment, Threatening abusive insulting words or behaviour etc, Drunk and Disorderly, Breach of the Peace, Obstruct police.	3 years.	Grant and suspend for up to 3 months* or Refuse.	4 years.	Grant and suspend for up to 6 months* or Refuse.	Suspend for up to 6 months or Revoke.
G.5	Criminal damage.	2 years.	Grant and suspend for up to 2 months*.	3 years.	Grant and suspend for up to 4 months*.	Suspend for up to 4 months.

\* Subject to any right of appeal, a period of suspension shall run from the date of the Licensing Committee hearing or the date by which all application requirements have been met, whichever is the later.

4.11 There are no guidelines available to Committee for the conviction listed as 1.