



Gwasanaeth Democraidd
Democratic Service
Swyddfa'r Cyngor
CAERNARFON
Gwynedd
LL55 1SH

**** CYFRINACHOL/CONFIDENTIAL**

Cyfarfod / Meeting

IS-BWYLLGOR TRWYDDEDU CYFFREDINOL
GENERAL LICENSING SUB-COMMITTEE

Dyddiad ac Amser / Date and Time

DYDD MERCHER, 29 o IONAWR 2014

WEDNESDAY, 29 JANUARY 2014

Lleoliad / Location:

SIAMBR DOLGELLAU

SWYDDFEYDD Y CYNGOR / COUNCIL OFFICES

PENARLAG

DOLGELLAU

am /at 10:00am

Pwynt Cyswllt / Contact Point

LOWRI HAF EVANS

(01286) 679878

lowrihafevans@gwynedd.gov.uk

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IS-BWYLLGOR TRWYDDEDU CYFFREDINOL
GENERAL LICENSING SUB-COMMITTEE

Aelodaeth/Membership (3)

Y Cynghorwyr / Councillors

Eryl Jones Williams (Cadeirydd / Chairman)

Louise Hughes

Angela Russell

Llywarch Bowen Jones

(wrth gefn/reserve)

AGENDA

1. APOLOGIES

To receive any apologies for absence.

2. DECLARATION OF PERSONAL INTEREST

To receive any declaration of personal interest.

3. URGENT ITEMS

To note any items that are a matter of urgency in the view of the Chairman for consideration.

4. EXCLUSION OF PRESS AND PUBLIC

The Chairman shall propose that the press and public be excluded from the meeting during the discussion on the following items due to the likely disclosure of exempt information as defined in paragraph 12, Part 4, Schedule 12A of the Local Government Act 1972. This paragraph should apply because the individuals in question are entitled to privacy and there is no overriding public interest that requires the disclosure of personal information relating to those individuals, nor their identity. Consequently, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

5. APPLICATION FOR A HACKNEY/PRIVATE HIRE LICENCE

To consider an application by Mr A (separate copy for sub-committee members only)

CANLLAWIAU AR WEITHDREFNAU TRWYDDEDU

PERTHASEDD COLLFARNAU

Ymdrinnir â phob achos yn ôl ei rinweddau'i hun.

Ni oes rheidrwydd fod unigolyn gyda collfarn neu gollfarnau yn cael ei wahardd yn barhaol rhag cael trwydded. Disgwylir i'r unigolyn fod heb unrhyw gollfarnau am rhwng 3 i 5 mlynedd, yn ddibynnol ar yr amgylchiadau, cyn y gellir ystyried trwydded. Er bod gan y Cyngor yr hawl i ddewis, yr ystyriaeth bwysicaf yw gwarchod y cyhoedd ac mae unrhyw unigolyn sydd wedi cyflawni trosedd ac yn gorfod aros am flwyddyn neu ddwy cyn cael ei dderbyn fel gyrrwr yn fwy na thebyg yn mynd i werthfawrogi'r drwydded ac ymddwyn yn unol â hynny.

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Mae'r enghreifftiau a ganlyn yn rhoi **arweiniad cyffredinol** ynghylch yr hyn a wneir ble bo collfarnau neu rybuddion yr Heddlu wedi cael eu derbyn.

Ble sonnir am 'gais' yn y Canllawiau hyn, cyfeiria hyn yn ogystal at 'ailgyflwyno cais' ar ôl diddymu trwydded gyffredol neu adnewyddu trwydded.

Troseddau Gyrru

- Ni ddylai euogfarnau am fân droseddau traffig, megis achosi rhwystr, torri cyfyngiadau aros ac ati, rwystro unigolyn rhag gwneud cais.
- Os yw ymgeisydd wedi casglu nifer digonol o bwyntiau cosb ynghynt, fyddai'n gofyn am gyfnod o waharddiad rhag gyrru, ond heb fod gofyn iddo gymryd prawf gyrru pellach, yna gellir caniatáu trwydded iddo ar ôl i'w drwydded yrru gael ei hadfer gyda rhybudd llym am y safonau uchel sy'n ddisgwylidig gan yrwyr trwyddedig.
- Os yw trwydded yrru gyrrwr yn cael ei diddymu yn dilyn chwech neu ragor o bwyntiau cosb yn ystod y ddwy flynedd gyntaf ar ôl pasio'r prawf gyrru, yna cyn y gellir ystyried ei gais am drwydded, rhaid i gyfnod o 12 mis fynd heibio heb gollfarnau pellach **ar ôl** pasio prawf gyrru ychwanegol.
- Os yw ymgeisydd wedi derbyn gorchymyn i ailymgeisio prawf gyrru yn dilyn cyfnod o waharddiad am drosedd arall sy'n denu pwyntiau cosb, yna dylai fod heb dderbyn collfarnau am chwe mis **ar ôl** pasio'r prawf gyrru cyn y gellir ystyried ei gais.

TROSEDDAU GYRRU YN CYNNWYS GWAHARDDIAD

- Ni ddylai euogfarn unigol am yrru heb y gofal a'r sylw dyladwy rwystro unigolyn rhag gwneud cais.
- Os bydd ymgeisydd wedi derbyn euogfarn am drosedd gyrru peryglus neu drosedd arall sy'n denu gwaharddiad gorfodol ac os yw wedi derbyn gorchymyn i

gymryd prawf gyrru estynedig ar ddiwedd y cyfnod gwaharddiad hwnnw, yna rhaid i gyfnod o 12 mis o leiaf fynd heibio heb unrhyw euogfarn **ar ôl** pasio'r prawf gyrru, cyn y gellir ystyried ei gais.

GYRRU HEB YSWIRIANT NEU YRRU DAN WAHARDDIAD

- Gan fod gyrrwyr trwyddedig yn gyfrifol am ddiogelwch y cyhoedd sy'n teithio yn eu cerbydau, ystyrir yn ddifrifol ym mhob achos euogfarnau am yrru heb yswiriant neu yrru dan waharddiad.
- Cyn y gellir ystyried ymgeisydd o'r fath, bydd yn rhaid iddo fod heb dderbyn euogfarnau o'r math hwn am o leiaf chwe mis.
- Os bydd ymgeisydd wedi'i wahardd rhag gyrru o ganlyniad i euogfarnau o'r math hwn, yna bydd y cyfnod chwe mis yn rhedeg o'r dyddiad yr adferwyd y drwydded.
- Os bydd yr ymgeisydd wedi derbyn mwy nag un euogfarn o'r math hwn o fewn y tair blynedd diwethaf, yna bydd yn rhaid i gyfnod o 12 mis fynd mynd heibio cyn y gellir ystyried ei gais.

CEISIO HURIO ALLAN

- Ystyrir hon yn drosedd difrifol gan y gall yswiriant y cerbyd gael ei annilysu pe ceid y gyrrwr yn euog gan Lys Ynadon o geisio hurio allan mewn cerbyd heblaw cerbyd hacni mewn ardal reoledig.
- Dylai cyfnod o leiaf chwe mis fynd heibio heb dderbyn euogfarnau cyn y gellir ystyried cais.
- Os caniateir trwydded, rhoddir rhybudd llym ynglŷn ag ymddygiad disgwylidig gyrrwyr trwyddedig.

METHU Â GWISGO BATHODYN ADNABOD

- Ystyrir yn ddifrifol unrhyw berson gydag euogfarn gan Lys Ynadon am fethu â gwisgo bathodyn adnabod wrth weithredu fel gyrrwr trwyddedig.
- Ni fydd euogfarn unigol yn ddigon i rwystro cais rhag cael ei ystyried. Fodd bynnag, os caniateir trwydded, rhoddir rhybudd llym ynglŷn ag ymddygiad disgwylidig gyrrwr trwyddedig.
- Os bydd ymgeisydd wedi derbyn euogfarn gan Lys Ynadon am y drosedd hon fwy nag unwaith, yna bydd yn rhaid i gyfnod o dri mis fynd heibio heb euogfarn cyn y gellir ystyried cais.

MEDDWDOD A THROSEDDAU CYSYLLTIEDIG ERAILL

i) GYDA CHERBYD MODUR

- Ystyrir euogfarnau o yrru, neu fod yn gyfrifol am unrhyw gerbyd dan ddylanwad alcohol neu gyffuriau, neu o beidio â rhoi sbesimen i'w brofi, yn ddifrifol iawn bob amser.
- Os bydd ymgeisydd wedi'i wahardd ac wedi derbyn gorchymyn i gymryd prawf gyrru estynedig neu brawf gyrru, yna rhaid i gyfnod o 12 mis fynd heibio heb unrhyw euogfarnau, **ar ôl** pasio'r prawf angenrheidiol, cyn y gellir ystyried cais.

- Os digwyddodd y drosedd o ganlyniad i'r unigolyn fod yn gyfrifol am gerbyd trwyddedig, neu yn gyrru cerbyd o'r fath, a bod y gyrrwr yn derbyn gorchymyn i gymryd prawf gyrru pellach, yna dylai cyfnod o ddwy flynedd heb euogfarnau fynd heibio ar ôl pasio'r prawf angenrheidiol, cyn y gellir ystyried cais.
- Os na dderbynnir gorchymyn i gymryd prawf gyrru, yna dylai cyfnod o 12 mis heb euogfarnau fynd heibio cyn y gellir ystyried cais.
- Os bydd gan ymgeisydd fwy na un euogfarn o'r math hwn, yna dylai bod amheuan cryf ynglŷn ag addasrwydd yr ymgeisydd i gael trwydded.
- Dylai o leiaf tair blynedd fynd heibio ar ôl adfer y drwydded yrru a phasio unrhyw brawf gyrru pellach cyn y gellir ystyried cais.
- Os bydd **unrhyw** awgrym bod yr ymgeisydd yn gaeth i alcohol neu'n defnyddio cyffuriau, dylid trefnu archwiliad meddygol arbennig gan feddyg wedi'i bennu gan y Cyngor.
- Rhaid i'r archwiliad meddygol fod yn foddhaol cyn y gellir ystyried cais.
- Os deallir bod yr ymgeisydd yn gaeth i alcohol neu'n defnyddio cyffuriau anghyfreithlon, yna ni ellir ystyried unrhyw gais hyd nes y bydd pum mlynedd wedi mynd heibio ar ôl cwblhau unrhyw driniaeth.

iii) **DDIM MEWN CERBYD MODUR**

- Ni ddylai digwyddiad unigol am drosedd yn gysylltiedig ag alcohol atal ymgeisydd rhag cael trwydded.
- Gall nifer o euogfarnau am y math hon o drosedd ddangos bod problem feddygol sydd angen edrych arni ymhellach fel y nodir uchod.
- Mewn rhai achosion rhoddir rhybudd am y safonau disgwylidig i yrwyr trwyddedig.

iv) **CYFFURIAU**

- Mae'n ofynnol i ymgeisydd gydag euogfarn am drosedd yn ymwneud â chyffuriau ddangos cyfnod o dair blynedd o leiaf heb euogfarnau cyn y gellir ystyried cais, neu o leiaf pum mlynedd ar ôl triniaeth dadwenwyno os oedd yr ymgeisydd yn gaeth i gyffuriau.

TROSEDDAU ANWEDDUSTR

- Dylid gwrthod trwydded i ymgeiswyr gydag euogfarn am ddinoethi anweddu, ymosodiad anweddu, llithio i bwrpas anfoesol, neu unrhyw drosedd o natur rywiol hyd nes bod cyfnod o rhwng tair a phum mlynedd wedi mynd heibio heb iddo dderbyn euogfarn.
- Os oedd yn rhaid i'r ymgeisydd gofnodi ar Gofrestr Troseddwyr Rhyw Cenedlaethol o ganlyniad i'r drosedd, yna ni ddylid ystyried unrhyw gais tra bydd yr ymgeisydd ar y gofrestr.
- Ni chaiff ymgeisydd gyda mwy nag un euogfarn am y math hon o drosedd ei ystyried yn addas i'w drwyddedu hyd nes bydd o leiaf pum mlynedd wedi mynd heibio ar ôl yr euogfarn fwyaf diweddar.
- Os cafwyd y math hwn o euogfarn yn sgil yr unigolyn yn gweithio fel gyrrwr trwyddedig, yna ni ddylid ystyried unrhyw gais ganddo am o leiaf pum mlynedd ar ôl yr euogfarn, neu os yw'n hirach na hynny, ar ôl terfynu'r ddedfryd a roddwyd.
- Ym mhob achos, pe caniateir trwydded, yna bydd am gyfnod o chwe mis yn unig ac ar ôl hynny rhaid i'r unigolyn dderbyn gwiriad cofnod troseddol arall.

- Os na chafodd yr ymgeisydd euogfarnau eraill o fewn y cyfnod trwyddedig o chwe mis, nid ystyrir unrhyw gais pellach hyd nes y bydd cyfnod o bum mlynedd wedi mynd heibio heb iddo dderbyn euogfarnau.

TRAIS

- Ymdrinnir yn llym iawn ag ymgeiswyr gydag euogfarnau am niwed corfforol difrifol, clwyfo, ymosod neu unrhyw drosedd o natur dreisgar.
- Rhaid i ymgeisydd fod heb dderbyn euogfarnau am o leiaf tair blynedd cyn y gellir ystyried cais.
- Ym mhob achos, os caniateir trwydded, rhoddir rhybudd llym ynglŷn ag ymddygiad disgwylidig gyrywyr trwyddedig.

ANONESTRWYDD

- Ystyrir yn ddifrifol unrhyw euogfarnau yn ymwneud ag anonestrwydd.
- Yn gyffredinol, dylai cyfnod o leiaf tair i bum mlynedd fynd heibio heb dderbyn euogfarnau cyn y gellir ystyried cais.

RHYBUDDION YR HEDDLU

- Ystyrir a rhoddir rhybudd yr Heddlu pan fo unigolyn yn dod i sylw'r heddlu am y tro cyntaf ac yn cyfaddef y drosedd.
- Ystyrir bod rhybudd yr Heddlu yn debyg i euogfarn fel pe bo'r unigolyn wedi'i euogfarnu mewn llys am drosedd gyffelyb o fewn pum mlynedd i dderbyn y rhybudd. Bryd hynny, gall y rhybudd gael ei gyfeirio at sylw'r Llys a bydd unrhyw gosb a roddir yn cael ei hystyried fel yr ail euogfarn ac felly gellir rhoi dedfryd.
- Yn gyffredinol, gall cais sy'n dangos rhybudd ei ystyried a'i gymeradwyo ond yr ystyriaeth bennaf yw gwarchod y cyhoedd.

TROSEDDAU ERAILL

- Ble bo Gorchymyn Rhwymo neu Orchymyn Atal wedi'i roddi gan lys, ni ellir ystyried unrhyw gais tra bydd y gorchymyn hwnnw'n gyfredol.
- Rhaid i gyfnod o leiaf chwe mis fynd heibio ar ôl i'r gorchymyn ddod i ben cyn y gellir ystyried cais.
- Yr ystyriaeth bennaf yw gwarchod y cyhoedd.

GUIDANCE ON LICENSING PROCEDURES

RELEVANCE OF CONVICTIONS:

Each case will be dealt with on its own merits.

A person with a conviction or convictions need not be permanently barred from obtaining a licence, but should be expected to be free from conviction for 3 to 5 years, according to the circumstances, before a licence is considered. Whilst the Council may exercise its discretion, the overriding consideration should be the protection of the public and someone who has committed an offence and has to wait a year or two before being accepted as a driver is more likely to value the licence and act accordingly.

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The following examples afford a **general guide** to action to be taken where convictions or police cautions are revealed.

Where, in these Guidelines, an 'application' is mentioned, this also refers to 're-application' upon revocation of a current licence or renewal of licence.

Traffic Offences

- Convictions for minor traffic offences, such as obstruction, contravention of waiting regulations etc should not prevent a person from making application.
- If an applicant has previously accrued sufficient penalty points to require a period of disqualification, and has not been required to undergo a further driving test, then a licence may be granted after its restoration, with a strict warning as to the high standards that are required of licensed drivers.
- If an applicant has a driving licence revoked following six or more penalty points accrued during the first two years since passing their driving test, then a period of 12 months free from further conviction **after** passing a further driving test should have elapsed before an application is considered.
- If an applicant has been ordered to retake a driving test after a period of disqualification for another offence which attracts penalty points, then 6 months free from conviction, **after** passing the driving test, should have elapsed before an application is considered.

TRAFFIC OFFENCES INVOLVING DISQUALIFICATION

- An isolated conviction for driving without due care and attention should not prevent a person from making an application.
- If an applicant has been convicted of an offence of dangerous driving, or other offence involving obligatory disqualification, and ordered to take an extended

driving test at the end of that period of disqualification, a period of at least 12 months free from conviction, **after** passing the driving test, should have elapsed before an application is considered.

DRIVING WITHOUT INSURANCE OR DRIVING WHILST DISQUALIFIED

- As licensed drivers are responsible for the safety of members of the public who are travelling in their vehicles, a serious view will always be taken of convictions for driving without insurance or driving whilst disqualified.
- An applicant will have to show a period of at least 6 months free from conviction of these types of offence before an applicant is considered.
- If an applicant has been disqualified from driving as a result of convictions of this type, then the 6 month period shall run from the date of restoration of the licence.
- If an applicant has more than 1 conviction of this type within the last 3 years, then a period of 12 months, from the restoration of the licence, must have elapsed before an application is considered.

PLYING FOR HIRE

- This is regarded as a serious offence as the vehicle insurance may be invalidated if the driver is found guilty in a Magistrate Court of plying for hire in a vehicle other than a hackney carriage in a controlled district.
- A period of at least 6 months free from conviction should elapse before an application is considered.
- If a licence is granted, a strict warning will be given as to the conduct expected of licensed drivers.

FAILURE TO WEAR IDENTIFICATION BADGE

- A serious view will be taken of persons convicted by a Magistrate Court of failing to wear the identification badge whilst acting as a licensed driver.
- An isolated conviction will not prevent an application being considered. However, if granted a strict warning will be given as to the conduct expected of a licensed driver.
- If an applicant has been convicted of this offence more than once, by a Magistrate Court, then a period of three months free of conviction shall have elapsed before an application is considered.

DRUNKENNESS AND OTHER RELATED OFFENCES

i) WITH A MOTOR VEHICLE

- A serious view will always be taken of convictions of driving or being in charge of any vehicle whilst under the influence of drink or drugs or failing to give a specimen for analysis.
- If an applicant has been disqualified and ordered to take either an extended driving test or driving test, then a period of at least 12 months free of convictions, **after** passing the necessary test, should have elapsed before an application is considered.

- If the offence arose as a result of the person being in charge of, or driving a licensed vehicle and ordered to take a further test, then a period of 2 years free from conviction after passing the necessary test should have elapsed before an application is considered.
- If no driving test has been ordered, then a period of 12 months free of conviction after the restoration of the licence should have elapsed before an application is considered.
- If an applicant has more than one conviction of this type then grave doubt should arise as to the applicant's suitability to hold a licence.
- At least 3 years must elapse after restoration of the driving licence and passing any further test before an application is considered.
- If there is **any** suggestion that the applicant is an alcoholic or illegal drug user, a special medical examination should be arranged by a medical practitioner nominated by the Council.
- This examination must be certified as satisfactory before an application is considered.
- If it is ascertained that the applicant is an alcoholic or illegal drug user then no application will be considered until at least 5 years have elapsed after any treatment has been completed.

ii) **NOT IN A MOTOR VEHICLE**

- An isolated conviction for a drink related offence should not debar an applicant from obtaining a licence.
- A number of convictions for this type of offence may indicate a medical problem necessitating further examination as mentioned above.
- In some cases a warning will be given as to the standards expected of licensed drivers.

iii) **DRUGS**

- An applicant with a conviction for a drug related offence should be required to show a period of at least 3 years free from conviction before an application is considered, or at least 5 years after detoxification treatment if the applicant was an addict.

INDECENCY OFFENCES

- Applicants with conviction for indecent exposure, indecent assault, importuning, or of any offence of a sexual nature should be refused a licence until a period of 3-5 years free from conviction has elapsed.
- If the applicant was required to register on the National Sex Offenders Register as a result of an offence. Then no application should be considered whilst the applicant remains on the Register.

- An applicant with more than one conviction for this type of offence should not be considered suitable to license until at least 5 years has elapsed following the most recent conviction.
- If a conviction of this type arose as a result of the person acting as a licensed driver then no application should be considered for at least 5 years after conviction or, if longer, the conclusion of the sentence imposed.
- In all cases, if a licence is granted, then it will be for a period of 6 months only, after which the person must undergo another criminal record check.
- If no further conviction has been obtained within the 6 month period of licence, no further application will be considered until a period of at least 5 years free of conviction has elapsed.

VIOLENCE

- A firm line will be taken with applicants with convictions for grievous bodily harm, wounding, assault or any other type of offence of a violent nature.
- An applicant must be free of conviction for at least 3 years before an application is considered.
- In all cases, if a licence is granted, a strict warning will be given as to the standards expected of licensed drivers.

DISHONESTY

- A serious view will be taken of any convictions involving dishonesty.
- In general a period of 3-5 years free from conviction should be required before an application is considered.

POLICE CAUTIONS

- A Police caution is considered and administered where a person comes to the notice of the Police for the first time, and admits the offence.
- A Police caution is considered similar to a conviction, as, if the person is convicted at court of a similar offence within 5 years of the caution being administered. Then the caution can be brought to the attention of the court and any sentence passed would be regarded as being a second conviction and therefore sentence may be imposed.
- In general, an application showing a caution may be considered and approved but the overriding consideration should be the protection of the public

OTHER OFFENCES

- Where a Binding Order or Restraint Order has been imposed by a court, no application will be considered whilst that order is still current.
- A period of at least 6 months free of conviction must have elapsed, after expiry of the order, before an application is considered.
- The overriding consideration should be the protection of the public.