



**BOROUGH OF PENDLE**

**STREET TRADING POLICY**

**GUIDANCE ON CONVICTIONS FOR  
APPLICANTS – APPENDIX A**

Updated: X 2017

## **GENERAL GUIDANCE:**

1. This guidance will be used by the Licensing Authority (Pendle Borough Council) when considering new applications, the renewal of existing consents and whether existing consents should be revoked, in relation to offences, convictions and other related matters.
2. The Authority may grant a consent if they think fit (paragraph 7 (2) Schedule 4 Local Government (Miscellaneous Provisions) Act 1982).
3. A street trading consent may be granted for any period not exceeding 12 months but may be revoked at any time (paragraph 7 (10) Schedule 4 Local Government (Miscellaneous Provisions) Act 1982).
4. The Authority asks every applicant to undertake a criminal record check (DBS Basic Disclosure) before applying for a consent. This check will be repeated at every renewal.
5. Information supplied to the Authority in this way is treated in the strictest confidence.
6. The Authority is concerned to ensure:
  - a. That the holder of a consent is fit.
  - b. The public are not exposed to persons with a history of dishonesty, indecency or violence.
  - c. The safeguarding of children and young persons and vulnerable adults.
7. If you have a criminal record it does not necessarily mean that you will not get a consent.
8. A person will need to have remained free of conviction, caution or warning for at least the period of time shown in the guidance against the offence concerned.
9. For the purposes of this guidance, formal cautions and endorsable fixed penalties shall be treated as though they were convictions.
10. By 'remained free of conviction, caution or warning', we (the Authority) mean that we will start counting the time from the end of the caution, warning or from the end of the sentence or penalty as appropriate, not from the date you were convicted or when the offence occurred. For example, if you have been banned from driving we will count the time from when the ban ended.
11. The Authority will take into account the nature and seriousness of the conviction, the number of convictions, when it was committed, the age of the applicant and all other relevant factors. Each case will be decided on its own merits.
12. We will not review the merits of a conviction.
13. If you have a conviction you may be asked to appear before a Council Committee to explain why you should get a consent. It is essential that you do attend if you are asked to. We may consider your application in your absence if you fail to attend without good reason.
14. We will listen to everything you say and will take it all into account. It will help you if you can tell us that, apart from being free of conviction, there are other grounds that make you fit to hold a consent.
15. The offences listed in the guidance are not a complete list and all convictions will be taken into account.
16. The Authority will follow and apply this guidance. The guidance will only be departed from if the Authority is satisfied there are compelling reasons to do so.

## **1. OFFENCES OF DISHONESTY:**

- a. Consent Holders must be persons the public can trust. Consent Holders are in a public facing role usually handling money. As such, offences of dishonesty are treated seriously.
- b. With relation to the list below, applicants must have remained free of conviction for at least 3 years:
  - i. Theft
  - ii. Burglary
  - iii. Fraud
  - iv. Benefit fraud
  - v. Handling and/or receiving stolen goods
  - vi. Forgery
  - vii. Conspiracy to defraud
  - viii. Obtaining money and/or property and/or services by deception
  - ix. Applicants must have remained free of conviction for at least 5 years, if they have been convicted of more than one of the above offences.

## **2. OFFENCES OF VIOLENCE:**

- a. Consent Holders can be in close contact with children and young persons, with some traders in closer contact than others (e.g. ice cream vendors).
- b. Offences against children and young persons (under 18 years):
  - i. The Authority seeks to minimise risks associated with children and young persons and for that reason a more serious view will be taken where offences of violence involve children or young persons.
- c. Consent Holders will be expected to treat everyone from all walks of life the same, irrespective of race, religion, sex, gender or age.
  - i. Pendle is a diverse community and, as such, offences which highlight intolerance may be considered more seriously.
- d. Applicants will not get a consent if they have a conviction for:
  - i. Murder
  - ii. Attempted murder
  - iii. Manslaughter.
- e. With relation to the list below, applicants must have remained free of conviction for at least 5 years:
  - i. Affray
  - ii. Arson
  - iii. Assault on the police
  - iv. Assault with intent to resist arrest
  - v. Malicious wounding or grievous bodily harm (GBH)

- vi. Obstruction
  - vii. Possession of an offensive weapon
  - viii. Possession of firearm
  - ix. Resisting arrest
  - x. Riot
  - xi. Violent disorder
  - xii. Assault occasioning actual bodily harm (ABH)
  - xiii. Common assault
  - xiv. Criminal damage where the damage is more than £500.
  - xv. Applicants must have remained free of conviction for at least 7 years, if they have been convicted of more than one of the above offences.
- f. With relation to the list below, applicants must have remained free of conviction for at least 10 years:
- i. Using threatening, abusive or insulting words or behaviour with intention to cause fear of violence (section 4 Public Order Act 1986)
  - ii. Using threatening, abusive or insulting words or behaviour with intention to cause harassment, alarm or distress (section 4A Public Order Act 1986)
  - iii. Robbery
  - iv. Unlawful wounding or causing grievous bodily harm (GBH)
  - v. Unlawful wounding or causing grievous bodily harm (GBH) with intent
  - vi. Applicants will not get a consent if they have been convicted of more than one of the above offences.

### **3. DRUG OFFENCES:**

- a. With relation to the list below, applicants must have remained free from convictions for at least 3 to 10 years, depending on the sentence imposed, the class of drug and the type of behaviour e.g. possession, supply, production.
- i. Possession of controlled drug
  - ii. Supplying or offering to supply controlled drug
  - iii. Possession of controlled drug with intent to supply
  - iv. Production of controlled drug
  - v. Importing and/or exporting controlled drug
  - vi. Offences relating to opium.
- b. The sentence that a court may impose depends upon the type of drug:
- i. Class A – includes, heroin, morphine, cocaine, LSD, opium and ecstasy; maximum sentence of life imprisonment.
  - ii. Class B – includes, amphetamine and cannabis; maximum sentence of up to 14 years imprisonment.
  - iii. Class C – maximum sentence of up to 5 years imprisonment.

#### **4. SEXUAL AND INDECENCY OFFENCES:**

- a. Offences against children and young persons (under 18 years):
  - i. The Authority seeks to minimise risks associated with children and young persons and for that reason a more serious view will be taken where sexual or indecency offences involve children or young persons.
- b. Applicants will not get a consent if they have a conviction for rape.
- c. With relation to the list below, applicants must have remained free from convictions for at least 5 to 10 years, depending on the sentence imposed:
  - i. Indecent assault
  - ii. Indecent exposure
  - iii. Causing or encouraging prostitution
  - iv. Sexual intercourse with a girl under 13
  - v. Sexual intercourse with a girl under 16
  - vi. Gross indecency
  - vii. Indecency towards children
  - viii. Indecent photographs of children.

#### **5. MOTORING CONVICTIONS:**

- a. Minor Road Traffic Offences:
  - i. With relation to the table below, applicants must have remained free of conviction for at least 6 months. If you have been banned from driving the period will run from when the ban ends.

|      |                                                                                                                                                                                       |
|------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| CU10 | Using a vehicle with defective brakes.                                                                                                                                                |
| CU20 | 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. |
| CU30 | Using a vehicle with defective tyres.                                                                                                                                                 |
| CU40 | Using a vehicle with defective steering.                                                                                                                                              |
| CU50 | Causing or likely to cause danger by reason of load or passengers.                                                                                                                    |
| CU60 | Undefined failure to comply with Construction and Use Regulations.                                                                                                                    |
| CU80 | Using a mobile phone while driving a motor vehicle                                                                                                                                    |
| LC10 | Driving without a licence.                                                                                                                                                            |
| LC20 | Driving otherwise than in accordance with a licence                                                                                                                                   |
| LC30 | Driving after making a false declaration about fitness when applying for a licence                                                                                                    |
| LC40 | Driving a vehicle having failed to notify a disability                                                                                                                                |
| LC50 | Driving after a licence has been revoked or refused on medical grounds                                                                                                                |
| MS10 | Leaving a vehicle in a dangerous position.                                                                                                                                            |
| MS20 | Unlawful pillion riding.                                                                                                                                                              |

|      |                                                                                                    |
|------|----------------------------------------------------------------------------------------------------|
| MS30 | Playstreet Offences.                                                                               |
| MS40 | Driving with uncorrected defective eyesight or refusing to submit to a test.                       |
| MS50 | Motor racing on the highway.                                                                       |
| MS60 | Offences not covered by other codes.                                                               |
| MS70 | Driving with uncorrected defective eyesight.                                                       |
| MS80 | Refusing to submit to an eyesight test.                                                            |
| MS90 | Failure to give information as to identity of driver etc.                                          |
| MW10 | Contravention of Special Road 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 | Driving without 'L' plates.                                                                        |
| PL20 | Not accompanied by a qualified person.                                                             |
| PL30 | Carrying a person not qualified.                                                                   |
| PL40 | Drawing an unauthorised trailer.                                                                   |
| PL50 | Undefined failure to comply with conditions of a Provisional Licence.                              |
| SP10 | Exceeding goods vehicle speed limit.                                                               |
| SP20 | Exceeding speed limit for type of vehicle (excluding goods or passenger vehicles).                 |
| SP30 | Exceeding statutory speed limit on a public road                                                   |
| SP40 | Exceeding passenger vehicle speed limit.                                                           |
| SP50 | Exceeding speed limit on a motorway.                                                               |
| SP60 | Undefined speed limit offence.                                                                     |
| TS10 | Failing to comply with traffic light signals.                                                      |
| TS20 | Failing to comply with double white lines.                                                         |
| TS30 | Failing to comply with a 'Stop' sign.                                                              |
| TS40 | Failing to comply with direction of a constable or traffic warden.                                 |
| TS50 | Failing to comply with traffic sign (excluding 'Stop' sign, traffic lights or double white lines). |
| TS60 | Failing to comply with school crossing patrol sign.                                                |
| TS70 | Undefined failure to comply with a traffic direction or sign.                                      |
| UT50 | Aggravated taking of a vehicle                                                                     |

b. Serious Road Traffic Offences:

- i. With relation to the table below, applicants must have remained free of conviction for at least 3 years:

|      |                                                                                      |
|------|--------------------------------------------------------------------------------------|
| AC10 | Failing to stop after an accident                                                    |
| AC20 | Failing to give particulars or report an accident within 24 hours.                   |
| AC30 | Undefined accident offence                                                           |
| CD10 | Driving without due care and attention.                                              |
| CD20 | Driving without reasonable consideration for other road users.                       |
| CD30 | Driving without due care and attention or without reasonable consideration for other |

road users.

IN10 Using a vehicle uninsured against third party risks.

BA10 Driving while disqualified by order of Court.

BA20 Driving while disqualified as under age.

BA30 Attempting to drive while disqualified by order of court

ii. Applicants must have remained free of conviction for at least 5 years, if they have been convicted of more than one of the above offences.

iii. You will not get a consent if you have any of the following convictions:

DD30 Reckless driving.

DD40 Dangerous driving

DD60 Manslaughter or culpable homicide while driving a vehicle

DD70 Causing death by reckless driving

DD80 Causing death by dangerous driving

DD90 Furious driving

CD40 Causing death through careless driving when unfit through drink

CD50 Causing death by careless driving when unfit through drugs

CD60 Causing death by careless driving with alcohol level above the limit

CD70 Causing death by careless driving then failing to supply a specimen for analysis

TT99 Totting up

c. Drunkenness and drugs:

i. With relation to the table below, applicants must have remained free of conviction for at least 5 years:

DR10 Driving or attempting to drive with alcohol level above limit

DR20 Driving or attempting to drive while unfit through drink or drugs

DR30 Driving or attempting to drive then refusing to supply a specimen for analysis

DR40 In charge of a vehicle while alcohol level above limit

DR50 In charge of a vehicle while unfit through drink or drugs

DR60 In charge of a vehicle then refuses to supply a specimen for analysis

DR70 Failing to provide a specimen for breath test

DR80 Driving or attempting to drive when unfit through drugs

DR90 In charge of a vehicle when unfit through drugs