

## Appendix C

### Response 1

**From:** [REDACTED]  
**Sent:** 26 June 2019 11:55  
**To:** Cook, Daniel <Daniel.Cook2@cardiff.gov.uk>  
**Subject:** Re: New Fitness Criteria for Drivers/Proprietors/Operators

Hi Dan, with reference the new proposed suitability criteria.

I believe the proposed motoring convictions suggestions to be unreasonable.

[REDACTED]

## Response 2



### Response to the 'Proposed Suitability Guidance' document

Members of Unite the Union within Hackney Cardiff Alliance firmly believe that a documented Equality Impact Assessment should have been carried out on the proposed changes to this policy.

We do not wish to be drawn into a discussion about whether it is fair or just to increase penalties and exclusions for criminal convictions that are referred to in the proposals, as the Rehabilitation of Offenders Act 1974 already exists and its principles should apply.

What's being proposed is being done so in the name of Cardiff Council and Cardiff Licensing. We are aware that it is something that other Local Authorities are considering it. Some have adopted it, some have not. The Hackney Trade within Cardiff is populated overwhelmingly by members from BAME communities. While there may be varying reasons as to why this is, discrimination in the wider field of employment is one potential reason. The trade can be perceived as one where an individual works as all other doors have been closed to them. The 'Proposed Suitability Guidance' document itself implies this, albeit purely from the perspective of having a criminal record, stating;

*4.2 Applicants may claim that they have sought employment in other fields and been precluded as a result of their antecedent history particularly if that contains convictions. They therefore seek to become a licensed driver as an occupation of last resort.*

The Lammy Review from 2017 states;

*BAME people make up:*

- *14% of the general population*
- *25% of the prison population*
- *40% of young people in custody.*

*In addition:*

- *Arrest rates are higher for BAME people*

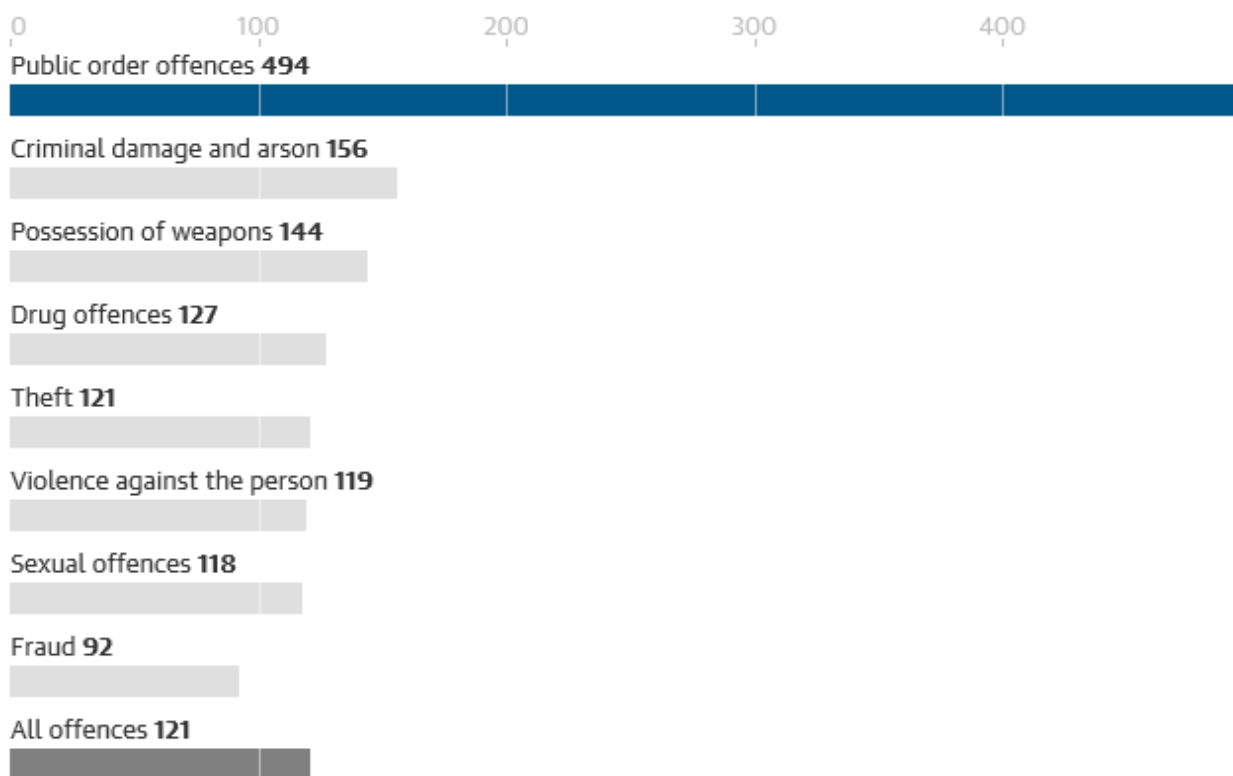
- *BAME people are more likely to plead not guilty*
- *BAME people are more likely to receive prison sentences for drugs offences*

The Lammy Review highlights findings from a MoJ study of Crown Court sentencing showing higher odds of imprisonment for defendants from black, Asian and Chinese or other backgrounds compared to white defendants. In particular, the odds of receiving a prison sentence for drug offences were 240% higher for BAME defendants.

Further examples of the disproportionate impact on BAME men can be seen in the following table,

### **For every 100 white men convicted of public order offences, there were 494 BAME convictions**

Number of BAME men placed in high-security prison, for every 100 white men convicted of the same type of offence, 2015



The review itself refers to those in the taxi trade, stating;

*Over the last five years 22,000 BAME children have had their names added to the Police National Database. This includes for minor offences, such as a police reprimand. The result in adulthood is that their names could show up on criminal record checks for careers ranging from accountancy and financial services to plumbing, window cleaning and driving a taxi.*

and

*The key legislation governing past convictions are The Rehabilitation of Offenders Act 1974 (ROA) and legislation establishing the Disclosure and Barring Service (DBS). The ROA sets out how long*

*offenders must wait after a conviction or prison sentence before a criminal record is 'spent' and need no longer be disclosed on a job application. For example, any adult serving a prison sentence of more than 30 months but less than four years must wait seven years after their sentence has been complete for their criminal record to be spent. Sentences of more than four years will never be 'spent' for either adults or children. In addition, there are some jobs for which offences may be 'spent', but will still show up on standard and enhanced criminal record checks – known as DBS checks. These include working in the care sector or becoming a licensed taxi driver.*

Also

*People can change quickly but their criminal record does not. For example, an 18 year-old serving a seven-month sentence will wait until their mid-20s before their conviction is spent – and even then, only for some jobs.*

*Selling drugs as a teenager could prevent you becoming a plumber or licensed taxi driver in your thirties. Often young adults can find a criminal record holding them back in the key period in their working lives.*

We feel that this highlights that there is a clear disproportionality when comparing the likelihood of criminal convictions between those from BAME communities and those from white communities, and given the trade is overwhelmingly from BAME communities there is a clear risk that this policy change will have a disproportional impact.

We demand that a full and thorough EIA is carried out and consulted upon before any changes to this policy are made.

We also believe that given the potential for the recent White Paper to introduce National Standards, any proposed changes to policies such as this would be better suited to that process.

There is further concern in the process taken in Public Protection Committee hearings.

The 'Proposed Suitability Guidance' document states;

*5.9 In all cases, the licensing authority will consider the conviction or behaviour in question and what weight should be attached to it, and each and every case will be determined on its own merits*

It is the experience of drivers and their representatives that this is not the case. Some cases have been decided merely on the basis that the witness has made a complaint, where there is absolutely no physical evidence to make a decision on a balance of probability to suspend someone from their only means of income for 10 days.