

Statement of Policy on Criminal Convictions relating to Hackney Carriage/Private Hire Driver Licence Applications

1. When submitting an application for the grant or renewal of a Hackney Carriage/Private Hire driver or Operator licence, all applicants are required to declare all convictions and cautions they may have received.
2. Applicants need to be aware that, in consequence of the Rehabilitation of Offenders Act 1974 (Exceptions) (Amendment) Order 2002, all applicants are excluded from the provisions of the Rehabilitation of Offenders Act 1974 in relation to spent convictions and all convictions, cautions (including motoring convictions and fixed penalties) must be declared.
3. In all cases, an applicant's identity is verified and an 'enhanced criminal record check' will be undertaken every three years. Where a check reveals that the applicant has a record of convictions, cautions or warnings these will be considered carefully on the basis of:
 - (i) how relevant the offences are to the licence applied for;
 - (ii) how serious the offences are; and
 - (iii) how recent the convictions are.

In the intervening years an annual sworn declaration in the presence of a Commissioner for Oaths is undertaken.

The Council reserves the right to seek intelligence from 'approved sources' such as General Practitioners, Police, Probation Services, Child Protection Agency, Social Services and Alcohol and Drug Rehabilitation Units.

4. The Council will consider all convictions based on the attached guidelines. However, it will pay special attention to particular criminal offences relating to violence, dishonesty, drugs, alcohol, sexual offences, criminal damage and serious offences connected with the driving of a motor vehicle.
5. The Council will also pay due attention to the principles of rehabilitation so that there are no unnecessary barriers for the employment of ex-offenders and recognises that employment plays an important part in preventing offenders from re-offending.
6. Whilst the relevant licence is in force, the Council will receive updates of convictions and cautions from the Police. This allows us to decide whether action needs to be taken on the continuation of the licence. It is also the responsibility of each licence holder to inform the Council of any conviction, caution or fixed penalty arising during the currency of that licence.
7. If any applicant is refused a driver's licence on the grounds that he/she is not a fit and proper person to hold such a licence, they have a right of appeal to the Magistrates' Court. Such an appeal must be made within twenty-one days of being notified of the Council's decision.
8. The Council's role as a Licensing Authority is to uphold the corporate objective in promoting a healthy and safe Eden in licensing both Hackney Carriage and Private Hire drivers and ensuring applicants are properly scrutinised through the relevant procedures. The protection of the public who travel in these vehicles is a primary objective.

Guidelines relating to the Relevance of Convictions

For the purposes of these guidelines, endorseable fixed penalties and formal cautions shall be treated as though they were convictions.

1. Determining an application when a criminal conviction has to be taken into account

- 1.1 All convictions will be considered on their merit having regard to the Council's Statement of Policy, these guidelines relating to the Relevance of Criminal Convictions and the advice offered by Home Officer Circular 13/92 and Department of Transport Circular 2/92 and will be weighed against the need to protect the general public.
- 1.2 The application will initially be determined by the Licensing Section and if any conviction or caution as laid down in the following relevant conviction guidance is disclosed through either the applicant or the Criminal Records Bureau check which indicates that, in accordance with this policy, the application should be refused, then the application will be referred to the Licensing Committee for their decision.

Specific Guidance on the Relevance of Convictions

2. Traffic Offences (Minor)

- 2.1 Isolated convictions for minor traffic offences, eg obstruction, waiting in a restricted street, speeding etc should not normally prevent a person from being granted a licence. However, if an applicant has received six penalty points or more for speeding or other minor offences, the application may be considered by the Licensing Committee to determine his/her suitability.
- 2.2 Convictions relating to minor driving offences committed whilst the applicant was driving a Hackney Carriage or Private Hire vehicle and/or carrying passengers will be considered in a more serious light.

3. Traffic Offences (Major)

- 3.1 An isolated conviction for driving without due care and attention should normally merit a warning as to future driving and suitable advice administered.
- 3.2 More than one conviction for driving without due care and attention will usually merit refusal of a licence and normally no further application will be entertained until a period of at least three years free from convictions has elapsed.
- 3.3 Convictions for more serious motoring offences such as causing death by dangerous/careless driving or manslaughter will be treated more seriously and a longer period free from conviction, normally five years or more, will be required before an application is entertained.
- 3.4 A licence will not normally be granted where an applicant has been disqualified from driving at any time within the twelve months preceding the date of application. Applications would normally only be entertained after at least a twelve month period from the restoration date of the licence has elapsed.

- 3.5 Any convictions committed when an applicant was driving a licensed vehicle or whilst engaged on licensed activities will be considered in a more serious light. A longer rehabilitation period may need to be demonstrated before a licence application will be entertained.

4. Drunkenness and Drugs

With a Motor Vehicle

- 4.1 A serious view will be taken of convictions for driving or being in charge of a vehicle whilst under the influence of drink or drugs. A conviction for these offences will raise grave doubts as to the applicant's fitness to hold a licence. A period of at least three years should elapse after conviction or the restoration of the DVLA driver's licence (whichever is the later) before a licence application is entertained.

If there is any suggestion that the applicant has an alcohol problem, then a special medical examination (at the applicant's cost) should be arranged before the application is entertained. If the applicant is found to be an alcoholic or has a drug addiction, then a minimum period of five years will need to elapse after completion of treatment before a further licence application is entertained.

- 4.2 If the conviction relates to alcohol or drug abuse committed whilst the applicant was driving a Hackney Carriage or Private Hire vehicle, then these will be considered in a more serious light and a longer period of rehabilitation will need to be demonstrated before a licence application is entertained. A medical examination relative to the alcohol or drug problem would need to be arranged.

Not in a Motor Vehicle

- 4.3 A single isolated conviction for drunkenness or possession of certain drugs (eg Class C type) would not automatically debar an applicant from gaining a licence. However, a number of convictions would usually merit a refusal and normally no further application will be considered until a period of at least three years free from convictions has elapsed or five years after detoxification treatment if he/she was an addict.

5. Indecency Offences

- 5.1 Hackney Carriage and Private Hire drivers often carry unaccompanied passengers. Applicants with convictions for sexual offences will normally be refused until they can show a substantial period free of such offences.
- 5.2 Applications will be refused in all cases where the applicant's name remains on the Sex Offenders Register.
- 5.3 Any convictions relating to indecency committed when the applicant was driving a licensed vehicle will be considered in a more serious light and a much longer period of rehabilitation will need to be demonstrated before a licence application will be entertained.

6. Violence and Abusive Behaviour

- 6.1 As Hackney Carriage and Private Hire drivers maintain close contact with the general public, a firm line should be taken with applicants who have convictions

for violent or abusive behaviour offences. This category includes all assaults, public order and criminal damage offences.

- 6.2 At least three to five years free of such convictions would normally be necessary before an application is entertained and, even then, a strict warning as to future conduct will be given.
- 6.3 Where convictions for offences relate to violence committed when the applicant was driving a licensed vehicle these will be considered in a more serious light and a much longer period of rehabilitation will be entertained.

7. Dishonesty

- 7.1 Hackney and Private Hire vehicle 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.

It is comparatively easy for a dishonest driver to defraud the public by demanding more than the legal fare etc. Foreign visitors can be confused by the change in currency and become 'fair game' for an unscrupulous driver.

- 7.2 For these reasons, a serious view will be taken of any conviction involving dishonesty and normally a period of three to five years free of conviction will be required before entertaining an application.
- 7.3 Convictions for offences relating to dishonesty when the applicant was driving a licensed vehicle will be considered in a more serious light and a much longer period of rehabilitation will need to be demonstrated before a licence application will be entertained.

8. Offences under The Town Police Clauses Act 1847 and Part II of the Local Government (Miscellaneous Provisions) Act 1976 and Hackney Carriage Byelaws (The Act)

- 8.1 One of the main purposes of the licensing regime set out in 'the Acts' and approved conditions is to ensure the protection of the public. For this reason, a serious view will be taken on convictions for offences under this legislation when deciding if a person is a fit and proper person to hold or continue to hold a licence.
- 8.2 Convictions for offences relating to 'the Acts' committed whilst operating as a licensed driver or operator may be considered in a more serious light with revocation of a licence a possibility.