

STATEMENT OF POLICY CONCERNING THE RELEVANCE OF CRIMINAL CONVICTIONS RELATING TO THE DETERMINATION OF APPLICATION OR RENEWAL OF HACKNEY CARRIAGE OR PRIVATE HIRE VEHICLE DRIVER'S LICENCE AND THE OPERATORS AND PROPRIETORS OF THOSE VEHICLES

Adopted 4 June 2008

Licensing and Public Safety Committee

1. When submitting an application for the grant or renewal of a Hackney Carriage/Private Hire Vehicle Driver's Licence, applicants are required to declare all convictions and cautions they may have.
2. The Council recognises that employment plays an important part in preventing ex-offenders from re-offending. Therefore we will also pay due attention to the principles of rehabilitation, so there are no unnecessary barriers for the employment of ex-offenders. However the Council's role as Licensing Authority is to protect members of the public who travel in Hackney Carriage and Private Hire Vehicles. The safety of the public will therefore be the overriding concern of the Council.
3. Applicants need to be aware that as a consequence of the Rehabilitation of Offenders Act 1974 (Exceptions) (Amendment) Order 2002, applicants for a licence are excluded from the provisions of the Rehabilitation of Offenders Act 1974 in relation to spent convictions and that all convictions and cautions (including motoring convictions and fixed penalties) must be declared.
4. We will in all cases verify an applicant's identity and require an enhanced criminal record check to be undertaken. Where the check reveals that the applicant has a record of convictions or cautions or warnings, we will consider these carefully on the basis of:
 - How relevant the offences were to the licence applied for;
 - How serious the offences were; and
 - How recent they were

We reserve the right to seek intelligence from all 'approved sources' such as the Police, Social Services Alcohol and Drug Rehabilitation Units, Probation Services, Child Protection Agency, General Practitioners, etc

5. We will consider all convictions based upon the Council's guidelines. However we will pay special attention to criminal offences involving dishonest, violence, drugs, alcohol, criminal damage and sexual offences, together with serious offences connected with the driving of a motor vehicle.
6. Whilst a licence is in force, we shall receive updates from the police and Courts, of new convictions and cautions for licence holders. This will allow us to decide whether action needs to be taken on the continuation of the licence. It is the responsibility of each licence holder to inform the Council of any conviction, caution or fixed penalty arising during the currency of the licence. A criminal record check is required on application, and thereafter every three years.
7. Any applicant refused a driver's licence on the ground that he/she is not a fit and proper person to hold such a licence has the right of appeal to a Magistrates' Court. Such appeal must be made within 21 days of being notified of the Council's decision.

GUIDELINES RELATING TO THE RELEVANCE OF CONVICTIONS

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

A. General arrangements for determining an Application when a Criminal Conviction has to be taken into account.

A1 All convictions shall be considered on merit, having regard to the Council's Statement of Policy and these guidelines relating to the Relevance of Criminal Convictions, and will be weighed against the need to protect the public. The protection of the public is though the Council's overriding concern.

A2 The Licensing Section will determine the application and if any conviction or caution as laid down in the following relevant conviction guidance, is disclosed through either the application or the Criminal Records Bureau check, the application will be referred to the appropriate licensing committee

A3 These guidelines set out minimum periods during which a person should be free of conviction before an application will normally be entertained. It does not follow that a licence should be granted after the minimum period has expired.

Specific Guidance on the Relevance of Convictions

B.1.1 Traffic Offences

B.1.2. Traffic Offences [Minor]

B1.2.1 Isolated convictions for minor traffic offences e.g. obstruction, waiting in a restricted street, speeding etc, should not normally prevent a person from being granted a licence.

B.1.2.2 If an applicant has received more than six points within the last two years for speeding or other minor offences, the application will be considered by the appropriate licensing committee to determine his/her suitability.

B.1.2.3 Convictions relating to minor driving offences committed when the applicant was driving a Hackney Carriage or Private Hire vehicle will be considered in a more serious light.

B.1.3 Traffic Offences [Major]

B.1.3.1 More than one conviction for driving without due care and attention or similar offence etc, within the last two years will usually merit refusal and normally no further application will be entertained until a period of at least three years free from convictions has elapsed.

B.1.3.2 A conviction 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 of conviction (normally a period of between 5 and 10 years) will be required before an application is entertained.

B.1.3.3 If an applicant has been disqualified from driving; a period of at least 12 months (after the restoration of the driving licence) should normally be required before an application is entertained.

B.1.3.4 A conviction committed when the applicant was driving a Hackney Carriage or Private Hire Vehicle whilst engaged on licensed activities 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 determined.

C Drunkenness & Drugs

C.1. With a Motor Vehicle

C.1.1 A serious view will be taken of a convictions of driving or being in charge of a vehicle 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 3 years (after restoration of the driving licence) would normally be required before a licence application is entertained.

C.1.2 If there is any suggestion that the applicant is an alcoholic or has a drug problem, a medical examination with a doctor nominated by the Council will be arranged (the costs of which will be born by the applicant) before an application is entertained. If the applicant is found to be an alcoholic or a drug addict, normally a period of between 5 to 10 years will need to elapse after completion of treatment before a licence application is entertained.

C.1.3 Convictions for offences relating to alcohol or drug abuse commissioned when the applicant was driving a Hackney Carriage or Private Hire will be considered in a more serious light and much longer period of rehabilitation will need to be demonstrated before a licence application will be entertained.

C.1.4 In this instance confirmation may be sought from a doctor nominated by the Council that the rehabilitation programme has been effective

C.2 Not in a Motor Vehicle

C.2.1. An isolated conviction for drunkenness or drugs need not debar an applicant from gaining a licence, although further consideration of the application should be required having regard to the circumstances of the offence. However, a number of convictions would usually merit refusal and normally no further application will be entertained until a period of at least 3 years free from convictions has elapsed.

D Indecency Offences

D.1. As Hackney Carriage and Private Hire Vehicle drivers often carry unaccompanied passengers, applicants with convictions for rape, indecent or other similar offences will normally be refused a licence.

D.2 For less serious indecency offences, applications will be refused in cases where the applicant remains on the Sexc Offenders Register. In any case an application will only be entertained after a substantial period of rehabilitation after removal from the sex offenders register

E Violence and Abusive Behaviour

E.1. As a Hackney Carriage and Private Hire Vehicle drivers maintain close contact with the public, a firm line will be taken with applicants who have convictions for violent or abusive offences. This category includes public order offences and criminal damage.

E.2 At least five years free of such convictions will normally be necessary before an application is entertained and even then a strict warning as to future conduct will be given.

E.3 A conviction for an offence relating to violence committed when the applicant was driving a Hackney Carriage or Private Hire 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. Convictions for racially motivated offences will be treated in a similar way.

F Dishonesty

F.1 Hackney Carriage 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. Moreover 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.

F.2 For these reasons a serious view will be taken of any conviction involving dishonesty. Normally a period of three to five years free of conviction will be required before entertaining an application.

F.3 A conviction for an offence relating to dishonesty committed when the applicant was driving a Hackney Carriage or Private Hire 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.

F.4 When an applicant has concealed any offence or caution at any time during the making of an application for the purposes of obtaining a Hackney Carriage or Private Hire Drivers Licence, the Council shall view such an omission in a serious light and expect that a period of at least 3 to 5 years free of convictions will be required before entertaining an application. In the instance where such a circumstance relates to an existing licence holder, or a person fails to inform the Licensing Authority of any convictions or cautions in accordance with the Council's conditions during the period of validity of a driver's licence, then this regard shall be viewed together with the guidance given at F3 above and may result in the revocation of the licence.

G Offences Under the Town Police Clauses Act 1857 and Part II of the Local Government (Miscellaneous Provisions) Act 1976 and any Hackney Carriage Byelaws (Taxi Legislation)

G.1 One of the main purposes of the licensing regime set out in the taxi legislation is to ensure the protection of the public. For this reason, a serious view will be taken of convictions for offences under the legislation, particularly offences of illegal plying for hire, when deciding if a person is fit and proper to hold a licence.

G.2 In particular, an application will normally be refused where an applicant has more than one conviction for an offence under the taxi legislation in the five years preceding the date of the application.

G.3 A conviction for an offence relating to the taxi legislation committed while licenced as a Hackney Carriage or Private Hire Driver, Proprietor or operator will be considered in a more serious light and a revocation of the appropriate licences may be instigated.