

STATEMENT OF POLICY CONCERNING THE RELEVANCE OF CRIMINAL CONVICTIONS RELATING TO THE DETERMINATION OF APPLICATION OR RENEWAL FOR A HACKNEY CARRIAGE/PRIVATE HIRE DRIVER'S LICENCE

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 Carriages and Private Hire Vehicles.
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 (CRB) to be undertaken. Where the check reveals that the applicant has a record of convictions or cautions and 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 Borough Council's guidelines. However we will pay special attention to criminal offences involving dishonesty, 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 purpose of these guidelines formal cautions and endorsable fixed penalties shall be treated as though they were convictions.

1. General Arrangements for Determining an Application when a Criminal Conviction has to be taken into account.

- (a) All convictions will 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.
- (b) The application will be determined by the Licensing Department 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 Licensing Sub Committee.

Specific Guidance on the Relevance of Convictions

2. Traffic Offences

(a) Traffic Offences [Minor]

- (i) 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.
- (ii) If an applicant has 8 or more current penalty points on their DVLA driving licence the application will be considered by the Licensing Sub Committee to determine his/her suitability.
- (iii) 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) Traffic Offences [Major]

- (i) 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 considered until a period of at least three years free from convictions has elapsed.
- (ii) 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 of conviction (normally a period of between 5 and 10 years) will be required before an application is considered.

- (iii) 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 considered.
- (iv) Any convictions 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 considered.

3 Drunkenness and Drugs

(a) With a Motor Vehicle

- (i) A serious view will be taken of convictions of driving or being in charge of a vehicle under the influence of drink or drugs. More than one 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 considered.
- (ii) 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 further licence application is considered.
- (iii) 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 a much longer period of rehabilitation will need to be demonstrated before a licence application will be considered.

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

(b) Not in a Motor Vehicle

- (i) 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 considered until a period of at least 3 years free from convictions has elapsed.

4. Indecency Offences

- (a) As Hackney Carriage and Private Hire Vehicle 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.
- (b) Applications will be refused in cases where the applicant remains on the Sex Offenders Register.
- (c) Convictions relating to offences of indecency 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 considered.

5. Violence and Abusive Behaviour

- (a) As 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.
- (b) At least five years free of such convictions will normally be necessary before an application is considered and even then a strict warning as to future conduct will be given.
- (c) Convictions for offences 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 considered.

6. Dishonesty

- (a) 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.
- (b) 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 considering an application.
- (c) Convictions for offences 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 considered.

- 7. Offences under The Town Police Clauses Act 1847 and Part II of the Local Government (Miscellaneous Provisions) Act 1976 and any Hackney Carriage Byelaws (Taxi legislation).**
- (a) One of the main purposes of the licensing regime set out in "the Acts" 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 a fit and proper person to hold a licence.
 - (b) In particular, an application will normally be refused where an applicant has more than one conviction for an offence under "the Acts" in the five years preceding the date of the application.
 - (c) Convictions for offences relating to 'The Acts' committed while licensed 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.