

## POLICY ON THE RELEVANCE OF CONVICTIONS FOR HACKNEY CARRIAGE AND PRIVATE HIRE DRIVERS

The local licensing authority must be satisfied that all those who are licensed to drive hackney carriages and private hire vehicles are fit and proper persons. This general policy relates to the Council's assessment of the suitability of an applicant for licensing as a driver of taxis and/or private hire vehicles in terms of their criminal and driving records. Specifically, it is to be applied where an applicant for a driver's licence has received a relevant conviction, caution or fixed penalty. Due weight and consideration will also be given to any warnings or reprimands given to the applicant in relation to criminal offences.

Additionally, it will be referred to where a relevant conviction, caution or fixed penalty has been received during the period of a driver's licence and used to help inform any decision as to the licence-holder's continuing fitness to hold a licence.

These guidelines shall apply to all new applicants and any application by a current holder for a further licence (popularly known as a 'renewal'), for hackney carriage drivers and private hire drivers. Any reference to an applicant shall also mean any person currently holding a hackney carriage driver's licence or a private hire driver's licence.

### **GENERAL POLICY**

Each case will be decided on its own merits. Although an applicant may have convictions that would fall under the guidelines in this policy, the Council will always consider the full facts of the case and any mitigating or other circumstances before reaching a decision.

Hackney carriage and private hire drivers are listed occupations under the Rehabilitation of Offenders Act 1974. This means that an applicant must disclose ALL convictions when applying for the grant of a licence. The Council may take into account anything they consider relevant to the determination of the application.

When the CRB and DVLA checks have been returned, the application will be considered in the light of the information provided. The information received from the CRB and DVLA will be used to ascertain whether the information given on the original application form was correctly and truthfully provided. It is therefore necessary to ensure that details of ALL convictions and cautions are provided at the initial stage.

A serious view will be taken of any application which seeks to conceal any caution or conviction in order to obtain a Licence. This is a criminal offence and, as such, may lead, not only to consideration of the applicant as not being a "fit and proper person", but criminal proceedings.

In the event that there are no relevant convictions, cautions or fixed penalties held, the applicant will be considered to be a "fit and proper person" and the matter will be determined by the issue of the licence.

Applications where convictions, cautions or fixed penalties are held will be considered by a Licensing Officer who, having regard to this policy may refer the application to a Licensing Sub-Committee for determination. This will result in either the determination of the applicant as a "fit and proper person", indicated by the issue of a licence, or the application being refused. In these circumstances, the applicant

has the right of appeal to the Magistrates Court, such appeal to be lodged within 21 days of the decision being notified.

## **GUIDELINES RELATING TO THE RELEVANCE OF PREVIOUS CONVICTIONS, CAUTIONS AND FIXED PENALTIES FOR HACKNEY CARRIAGE AND PRIVATE HIRE LICENCES**

### **1. General Policy**

- 1.1 Each case will be decided on its own merits.
- 1.2 The overriding consideration is the safety of the public. The Council has a duty to ensure so far as possible that those licensed to drive hackney carriage and private hire vehicles are suitable persons to do so, that they are safe drivers with good driving records and adequate experience, sober, courteous, mentally and physically fit, honest and not persons who would take advantage of their employment.
- 1.3 A person with a current conviction for a serious crime need not be permanently barred from obtaining a licence but should be expected to (a) remain free of conviction for an appropriate period and (b) show adequate evidence of good character from the time of the conviction. Simply remaining free of conviction will not generally be regarded as sufficient evidence of good character. Applicants will normally be expected to provide oral or written testimony of their good character given by an independent person of standing within the community.
- 1.4 In determining whether an applicant has remained free of conviction for an appropriate period, any time the applicant has spent in custody may be taken into consideration by the Authority.
- 1.5 Some discretion may be appropriate if the offence is isolated and there are mitigating circumstances. Similarly, multiple offences or a series of offences over a period of time are likely to give greater cause for concern and may demonstrate a pattern of inappropriate behaviour which will be taken into account.
- 1.6 If the Licensing Officer, having had regard to these guidelines, feels there is some doubt as to the fitness and propriety of any person to hold a licence, the matter will be referred to a Licensing Sub-Committee for determination.
- 1.7 The following examples afford a general guide on the action which might be taken where convictions are disclosed.

### **2. Offences of Dishonesty**

- 2.1 Drivers of hackney carriage and private hire vehicles are expected to be persons of trust. It is comparatively easy for a dishonest driver to defraud the public by demanding more than the legal fare and in other ways.
- 2.2 Passengers may include especially vulnerable people.
- 2.3 Members of the public entrust themselves to the care of drivers both for their own safety and for fair dealing. In certain situations drivers will know that a

property is empty whilst the occupants are away on holiday for a set period of time after taking them to the airport or railway station.

- 2.4 The widespread practice of delivering unaccompanied property is indicative of the trust that businesses put into drivers.
- 2.5 For these reasons a serious view is taken of any convictions involving dishonesty. In general an applicant with convictions for dishonesty, which are less than 4 years old, is unlikely to be considered favourably.
- 2.6 In particular, an application will normally be refused where the applicant has a conviction for an offence or similar offences or offences which replace the below offences and the conviction is less than 4 years prior to the date of application:-
  - Theft
  - Burglary
  - Fraud
  - Benefit fraud (including offences under ss.111A and 112 of the Social Security Administration Act 1992)
  - Handling or receiving stolen goods
  - Forgery
  - Conspiracy to defraud
  - Obtaining money or property by deception
  - Other deception

### **3. Violence**

- 3.1 Drivers of hackney carriage and private hire vehicle are often entrusted with the care of children and young persons.
- 3.2 It is comparatively easy for an unscrupulous driver to take advantage of such vulnerable persons.
- 3.3 The Council 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.
- 3.4 Where an offence involved loss of life a licence will normally be refused. In other cases a period of 5 to 10 years free of conviction for offences involving violence (depending on the nature and seriousness of the offence) will generally be required before an application is likely to be considered favourably.
- 3.5 In particular an application will normally be refused where the applicant has a conviction for an offence or similar offence(s), or offence(s) which replace the following:
  - Murder
  - Manslaughter
  - Manslaughter or culpable homicide while driving

- 3.6 An application will also normally be refused where the applicant has a conviction for an offence or similar offence(s) or offence(s) which replace the following and the conviction is less than 10 years prior to the date of application:
- Arson
  - Malicious wounding or grievous bodily harm (s.20 Offences Against the Person Act 1861) which is racially aggravated (s.29(1)(a) Crime and Disorder Act 1998)
  - Actual bodily harm (s.47 Offences Against the Person Act 1861) which is racially aggravated (s.29(1)(b) Crime and Disorder Act 1998)
  - Grievous bodily harm with intent (s.18 Offences Against the Person Act)
  - Grievous bodily harm with intent (s.20 Offences Against the Person Act)
  - Robbery
  - Possession of firearm
  - Possession of an imitation firearm
  - Riot
  - Assault Police
  - Common assault with racially aggravated (s.29(1)(c) Crime and Disorder Act 1998)
  - Violent disorder
  - Resisting arrest
- 3.7 An application will also normally be refused where the applicant has a conviction for an offence or similar offence(s) or offence(s) which replace the following and the conviction is less than 8 years prior to the date of application:
- Racially-aggravated criminal damage (s.30 Crime and Disorder Act 1998)
  - Racially-aggravated s.4 Public Order Act 1986 offence (fear of provocation of violence) (s.31(1)(a) Crime and Disorder Act 1998)
  - Racially-aggravated s.4A Public Order Act 1986 offence (intentional harassment, alarm or distress (s.31(1)(b) Crime and Disorder Act 1998)
  - Racially-aggravated s.2 Protection from Harassment Act 1997 offence (harassment) (s.32(1)(a) Crime and Disorder Act 1998)
  - Racially-aggravated s.4 Protection from Harassment Act 1997 offence (putting people in fear of violence) (s.32(1)(b) Crime and Disorder Act 1998)
  - Racially-aggravated s.5 Public Order Act 1986 offence (harassment, alarm or distress) (s.31(1)(c) Crime and Disorder Act 1998)
  - Assault occasioning actual bodily harm (s.47 Offences Against the Person Act)
- 3.8 An application will also normally be refused where the applicant has a conviction for an offence or similar offence(s) or offence(s) which replace the following and the conviction is less than 5 years prior to the date of application:

- Common assault
- Affray
- S5 Public Order Act 1986 offence (harassment, alarm or distress)
- S.4 Public Order Act 1986 offence (fear of provocation of violence)
- S4A Public Order Act 1986 offence (intentional harassment, alarm or distress)
- Obstruction
- Possession of offensive weapon
- Possession of prohibited articles (as prescribed)
- Criminal damage

#### **4. Drugs**

- 4.1 An application will normally be refused where the applicant has a conviction for an offence related to either the supply of drugs or the possession of drugs with intent to supply, and where the conviction is less than 5-10 years prior to the date of application.
- 4.2 After 5 years, consideration will be given to the circumstances of the offence and any evidence demonstrating that the person is now a fit and proper person to hold a licence.
- 4.3 An application will normally be refused where the applicant has more than one conviction for offences related to the possession of drugs and the convictions are less than 5 years prior to the date of the application.
- 4.4 An application from an applicant who has an isolated conviction for an offence related to the possession of drugs within the last 3 years will require careful consideration of the facts.
- 4.5 If any applicant was an addict then they will normally be required to show evidence of 5 years free from drug taking after detoxification treatment. If detoxification treatment was not undertaken the applicant will need to provide other medical evidence to demonstrate that they are no longer dependant on drugs.
- 4.6 When considering any drug related offence, the classification of the drugs involved will be a factor taken into consideration when determining applications.

#### **5. Sexual / Indecency Offences**

- 5.1 Any applicant currently on the sex offenders' register would not normally be granted a licence.
- 5.2 Drivers of hackney carriage and private hire vehicle are often entrusted with the care of children and young persons. It is comparatively easy for an unscrupulous driver to take advantage of such vulnerable persons. Therefore where the commission of a sexual offence involves a child or young person an application for a licence will normally be refused.

- 5.3 As hackney carriage and private hire vehicle drivers often carry unaccompanied passengers, applicants with a conviction for rape, indecent assault, or other similar offences including those under the Sexual Offences Act 2003, will normally be refused a licence.
- 5.4 Applicants with a conviction relating to sexual offences such as soliciting, importuning, indecent exposure or other similar offences including those under the Sexual Offences Act 2003, will normally be refused a licence until they can show a substantial period (usually between 5 and 10 years) free from any such conviction.
- 5.5 After 5 years, consideration will be given to the circumstances of the offence and any evidence demonstrating that the person is now a fit and proper person to hold a licence.

## **6. Drunkenness**

### **With a motor vehicle (No Disqualification)**

- 6.1 A serious view will be taken of convictions of driving or being in charge of a vehicle while under the influence of drink.
- 6.2 An application will normally be refused where the applicant has a conviction, which does not result in disqualification, for an offence within 2 years of the date of the application.
- 6.3 More than one conviction for this type of offence, within the last 5 years of the date of conviction is likely to merit refusal.

### **With a motor vehicle (Disqualification)**

- 6.4 Where a disqualification has occurred as a result of a drink-driving offence, at least 5 years free from conviction should normally elapse from the date of the restoration of the DVLA licence before an applicant is considered for a licence.
- 6.5 In addition, applicants will normally be required to show a period of at least 5 years has elapsed after completion of detoxification treatment if they were an alcoholic. If detoxification treatment was not undertaken the applicant will need to provide other medical evidence to demonstrate that they are no longer dependant on alcohol.

### **Not in a motor vehicle**

- 6.6 An isolated conviction for drunkenness need not debar an applicant from gaining a licence. In some cases, a warning may be appropriate.
- 6.7 More than one conviction for drunkenness could indicate a medical problem necessitating critical examination and refusal of a licence.
- 6.8 In addition, applicants will generally be required to show a period of at least 5 years has elapsed after completion of detoxification treatment if they were an alcoholic. If detoxification treatment was not undertaken the applicant will need to provide other medical evidence to demonstrate that they are no longer dependant on alcohol.

## **7. Motoring Convictions**

### **7.1 Major Traffic Offences**

An isolated conviction, without disqualification, for an offence such as dangerous driving or driving without due care and attention will require careful consideration of the facts and will at the very least merit a warning as to future driving and advice on the standard expected of hackney carriage and private hire vehicle drivers. However, where the conviction is within 6 months prior to the date of the application the application will normally be refused.

More than one conviction for this type of offence within the last 5 years is likely to merit refusal.

### **7.2 Minor Traffic Offences**

Isolated convictions for minor traffic offences should not prevent a person from proceeding with an application. However, the number, type and frequency of this type of offence will be taken into account and if there are several offences of this nature the applicant will normally be expected to show a period free of conviction of at least 6 months.

In particular, an application will normally be refused where the applicant has received 12 or more penalty points on his DVLA licence in the five years prior to the application being made (whether or not the applicant was convicted by a court for the offences for which the points were imposed) or where the applicant has more than one conviction for this type of offence within the last 6 months.

A list of offences to which this paragraph applies can be found at Annex A to this policy

### **7.3 Hybrid Traffic Offences**

Offences of the type listed below will be treated as major traffic offences if the court awarded 4 or more penalty points for the offence and as minor traffic offences if the court awarded 3 or less penalty points for the offence.

### **7.4 Disqualification**

- 7.4.1 Where an applicant has been disqualified from driving because of a major traffic offence the application will generally be refused unless a period of 2 years free from conviction has elapsed from the restoration of the DVLA licence.
- 7.4.2 Where several minor traffic offences have resulted in the applicant being disqualified from driving for a period of time this will normally be taken as reflecting seriously on the applicant's driving standard. Generally, a period of 12 months free from conviction must have elapsed from the restoration of the DVLA licence.
- 7.4.3 In "totting-up" cases where disqualification is considered by the court, even if the court does not disqualify (e.g. because of exceptional circumstances) a driver, the Council is likely to refuse a hackney carriage or private hire driver's licence because different criteria apply. An applicant will normally be

expected to show a period of 12 months free from conviction from the date the court made its finding of exceptional circumstances justifying the non-disqualification.

## **8. Offences under the Town Police Clauses Acts and Part II of the Local Government (Miscellaneous Provisions) Act 1976**

- 8.1 One of the main purposes of the licensing regime set out in the Town Police Clauses Acts and Part II of the Local Government (Miscellaneous Provisions) Act 1976 ("the Acts") is to ensure the protection of the public. For this reason a serious view is taken of convictions for offences under the Acts (including illegally plying for hire) when deciding whether an applicant is to be treated as a fit and proper person to hold a licence.
- 8.2 In particular, an applicant will normally be refused a licence where (s)he has been convicted of an offence under the Acts at any time during the 6 months preceding the application or has more than one conviction within the last 2 years preceding the date of the application.

## **9. Spent Convictions**

The Council will only consider spent convictions if it appears to be relevant for deciding whether the applicant is a fit and proper person to hold a licence and that justice cannot be done in the case, except by admitting or requiring evidence relating to that spent conviction.

## **10. Cautions and Endorsable Fixed Penalties**

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

Due weight and consideration will also be given to warnings and reprimands given to applicants in respect of criminal offences, but these will not be treated as though they were convictions.



## **ANNEX A**

### **MAJOR TRAFFIC OFFENCES**

- AC10 Failing to stop after an accident
- AC20 Failing to give particulars or to report an accident within 24 hours
- AC30 Undefined accident offences
- BA10 Driving while disqualified by order of court
- BA30 Attempting to drive while disqualified by order of court
- 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
- 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
- CD80 Causing death by careless, or inconsiderate, driving
- CD90 Causing death by driving: unlicensed, disqualified or uninsured drivers
- DD40 Dangerous driving
- DD60 Manslaughter or culpable homicide while driving a vehicle
- DD80 Causing death by dangerous driving
- DR10 Driving or attempting to drive with alcohol level above limit
- DR20 Driving or attempting to drive while unfit through drink
- DR30 Driving or attempting to drive then failing 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
- DR60 Failure to provide a specimen for analysis in circumstances other than driving or attempting to drive
- DR70 Failing to provide specimen for breath test
- DR80 Driving or attempting to drive when unfit through drugs
- DR90 In charge of a vehicle when unfit through drugs
- IN 10 Using a vehicle uninsured against third party risks
- 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
- MS50 Motor racing on the highway
- MS60 Offences not covered by other codes
- UT50 Aggravated taking of a vehicle

Aiding, abetting, counselling or procuring offences as coded above, but with 0 changed to 2 (e.g. IN10 becomes IN12)

Causing or permitting offences as coded above, but with 0 changed to 4 (e.g. IN10 becomes IN14)

Inciting offences as coded above, but with 0 changed to 6 (e.g. IN10 becomes IN16)

## **MINOR TRAFFIC OFFENCES**

- MS10 Leaving a vehicle in a dangerous position
- MS20 Unlawful pillion riding
- MS30 Play street Offences
- 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
- 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 sign

Aiding, abetting, counselling or procuring offences as coded above, but with 0 changed to 2 (e.g. PC10 becomes PC12)

Causing or permitting offences as coded above, but with 0 changed to 4 (e.g. PC10 becomes PC14)

Inciting offences as coded above, but with 0 changed to 6 (e.g. PC10 becomes PC16)

## **HYBRID TRAFFIC OFFENCES**

- CU10 Using 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 tyre(s)
- CU40 Using a vehicle with defective steering
- CU50 Causing or likely to cause danger by reason of load or passengers
- CU80 Using a mobile phone while driving a motor vehicle
- 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

Aiding, abetting, counselling or procuring offences as coded above, but with 0 changed to 2 (e.g. CU10 becomes CU12)

Causing or permitting offences as coded above, but with 0 changed to 4 (e.g. CU10 becomes CU14)

Inciting offences as coded above, but with 0 changed to 6 (e.g. CU10 becomes CU16)