

Guidelines relating to the relevance of convictions for applicants for the grant and renewal of licences to drive hackney carriages and private hire vehicles



General Policy

1. **Each case will be decided on its own merits.**
2. The Council will as far as is possible ensure that all persons holding a licence to drive hackney carriages or private hire vehicles are fit and proper persons. In doing so, the Council will take into account previous convictions including where relevant "spent" convictions.
3. The Council will always put the protection of the public first when considering the relevance of convictions recorded against an applicant for a licence.
4. A person with a conviction for serious crime need not be permanently barred from obtaining a licence but will be expected to remain free of conviction for an appropriate period, before an application is considered. However, remaining free of conviction for a specified period may not be sufficient to show that a person is fit and proper and additional evidence may be required.
5. There may be occasions where it is appropriate to depart from the guidelines when making a decision on an application. For example where the offence is a one-off and there are mitigating circumstances or alternately, where there are many or continuous offences which may show a pattern of offending and unfitness.
6. The following examples give a general guide as to the action that might be taken where convictions are recorded against an applicant.

(a) Dishonesty

Members of the public using hackney carriages and private hire vehicles expect the driver to be honest and trustworthy. It would be easy for a dishonest driver to take advantage of the public.

For these reasons a serious view will be taken of any conviction involving dishonesty. In general, if an application is made within the first 3 to 5 years from the date of a conviction or from the date of release from jail where a custodial sentence has been imposed, it is likely that it will be refused.

Where an application is made within the first three years since the conviction or the date of release from jail, where a custodial sentence has been imposed, for any of the following offences, the application will normally be refused:-

- Theft;
- Burglary;
- Fraud;
- Benefit fraud (including offences under ss 11A and 112 of the Social Security Administration Act 1992);
- Blackmail;

- Handling or receiving stolen goods;
- Forgery;
- Conspiracy to defraud;
- Obtaining money or property by deception;
- Other deception;
- Or similar offences to those above or any offence which may replace any of the above offences.

When a period of 3 years from conviction or the date of release from jail, where a custodial sentence has been imposed has passed, consideration will be given to the circumstances of the offence and any evidence to show that an applicant is a fit and proper person to hold a licence.

(b) Violence

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 violence. Where the commission of an offence involves loss of life, a licence will normally be refused. In other cases, a period of 3 to 10 years free of conviction from the date of conviction or the date of release from jail, where a custodial sentence has been imposed will generally be required before an application is likely to be considered favourably. The nature and seriousness of the offence(s) will be taken into consideration.

In particular:-

- (i) An application will normally be refused where the applicant has a conviction for an offence of:
 - Murder;
 - Manslaughter;
 - Manslaughter or culpable homicide while driving;
 - Or similar offence or offences which replace the above offences.

- (ii) An application will normally be refused for a period of five years from the date of the conviction or the date of release from jail, where a custodial sentence has been imposed if the applicant has a conviction for:-
 - Arson;
 - Malicious wounding or grievous bodily harm which is racially aggravated;
 - Assault occasioning actual bodily harm which is racially aggravated;
 - Assault with intent to cause grievous bodily harm;
 - Assaulting a Police Officer in the execution of his duties;
 - Malicious wounding;
 - Robbery;
 - Racially aggravated criminal damage;
 - Racially aggravated fear or provocation of violence;
 - Racially aggravated intentional harassment, alarm or distress;
 - Racially aggravated harassment;
 - Racially aggravated putting people in fear of violence;
 - Riot;
 - Possession of an offensive weapon;

- Possession of a firearm;
 - Violent disorder;
 - Or any arrestable offence involving violence (an arrestable offence is defined as an offence committed by a person of age 21 years or over and on conviction for the first offence may be sentenced to a term of imprisonment of 5 years or where the penalty is fixed by law).
- (iii) An application will normally be refused for a period of three years from the date of conviction or the date of release from jail, where a custodial sentence has been imposed, where the applicant has a conviction for:-
- Common assault;
 - Racially aggravated common assault;
 - Assault occasioning actual bodily harm;
 - Affray;
 - Racially aggravated harassment, alarm or distress;
 - Resisting arrest;
 - Obstructing a police officer in the execution of his duty;
 - Criminal damage;

Any similar offence or offences which replace the above offences;

(c) Drugs.

An application will normally be refused if an applicant has a conviction for an offence that relates to the supply or importation of drugs and the date of the conviction or the date of release from jail, where a custodial sentence has been imposed, is less than 5 to 10 years before the date of the application.

However, after 5 years from the date of such a conviction or the date of release from jail, where a custodial sentence has been imposed, the circumstances of the offence and any evidence which shows that a person is now a fit and proper person to hold a licence will be taken into consideration.

An application will normally be refused where an application is made within 3 to 5 years from the date of a conviction or the date of release from jail, where a custodial sentence has been imposed for an offence relating to the possession of drugs. However, after a period of three years from the date of such a conviction or the date of release from jail, where a custodial sentence has been imposed, consideration will be given to the circumstances of the offence and any evidence to show that an applicant is a fit and proper person to hold a licence.

An application will normally be refused where an applicant has more than one conviction for offences related to the possession of drugs and the last conviction or the date of release from jail, where a custodial sentence has been imposed, is less than 5 years before the date of the application.

Where evidence is available that an applicant who has convictions for drug related offences has been addicted to drugs, they will have to produce evidence that shows that they have been free of drug taking for at least 5 years after successfully completing a drug treatment programme.

(d) Sexual and Indecency Offences

As the driver of hackney carriages and private hire vehicles often carry passengers who are alone or may be vulnerable, applicants who have convictions for rape, indecent assault, any sexual offence involving children and any conviction for an offence under the Sexual Offences Act 2003 will normally be refused a licence.

Where an applicant has a conviction for a sexual offence such as indecent exposure they will normally be refused a licence until they can show a substantial period usually between 5 and 10 years free of any such convictions from the date of conviction or the date of release from jail where a custodial sentence has been imposed before an application is made.

After a period of 5 years from the date of a conviction or the date of release from jail, where a custodial sentence has been imposed, consideration will be given to the circumstances of the offence and any evidence to show that an applicant is a fit and proper person to hold a licence.

When considering applications, the Council may take into account any information of a sexual nature which does not amount to a criminal offence that is brought to its attention where that information may indicate that an applicant may not be a fit and proper person to hold a licence.

(e) Motoring Convictions

(i) Disqualification

Where an applicant has been disqualified from driving by the Courts for a serious traffic offence under Category "A" of Annex (i), an application will generally be refused unless a period of 5 years free of conviction has passed since the return of the DVLA licence.

Where an applicant has been disqualified from driving by the Courts for a serious traffic offence under Category "B" of Annex (i), an application will generally be refused unless a period of 5 years free of conviction has passed since the return of the DVLA licence unless the offence was an isolated one, in which case, a period of not less than 2 years shall have passed.

Where a disqualification is imposed by a court in a "totting-up" case, i.e. where an applicant has been disqualified because of several driving offences an application will generally be refused unless a period of 1 year free of conviction has elapsed since the return of the DVLA driver licence.

In "totting-up" cases where a court does not impose a disqualification because of exceptional circumstances, then because the Council apply different criteria to the Courts, an application will generally be refused unless an applicant can show a period of 1 year free of conviction from the date of the last Court appearance.

(ii) Serious traffic Offences

Where an applicant has a conviction for a serious traffic offence in Category "A" Annex (i) and a period of disqualification has not been imposed by the Courts, an

application will normally be refused where an application is made in the 5 years following the date of the last conviction.

Where an applicant has a conviction for a serious traffic offence in Category "B" Annex (i) and a period of disqualification has not been imposed by the Courts, an application will normally be refused where an application is made in the 5 years following the date of the last conviction unless the offence was an isolated one in which case, a period of not less than 2 years shall have passed.

Where an applicant has had more than one conviction for a serious traffic offence in either Category "A" or "B" of Annex (i) and the Courts have not imposed a period of disqualification, an application will normally be refused where an application is made in 5 years following the date of the last conviction.

(iii) Other traffic Offences

Normally, isolated convictions for other traffic offences should not prevent someone obtaining a licence. However, the number, type and the frequency of these types of offence will be taken into account. If there are several convictions for these types of offence, an applicant will normally be expected not to have been convicted of an offence in the 6 months before an application is made.

A list of relevant offences is shown at Annex (ii). However, this is not an exhaustive list and there may be other offences which may be relevant.

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

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.

In particular, an application will normally be refused where an applicant has more than one conviction for an offence under "the Acts" in the two years preceding the date of the application.

(g) Drunkenness

(i) In a motor vehicle.

The manner in which drunkenness offences in a motor vehicle will be dealt with is outlined in Motoring Offences at paragraph "e" of these guidelines.

(ii) Not in a motor vehicle.

Where an applicant has an isolated conviction for drunkenness, this need not stop an applicant from getting a licence. In some cases, a warning may be appropriate. However, where an applicant has a number of convictions for drunkenness, it could indicate a medical problem, which would require further investigation including a medical examination and the possible refusal of a licence.

(h) Spent Convictions

The Council will only take "Spent Convictions" into consideration if it is considered they are relevant to the application.

(i) Formal Cautions and fixed penalty notices.

For the purposes of these guidelines, the Council will treat Formal Cautions issued in accordance with Home Office guidance and fixed penalty notices as though they were a conviction before the courts.

Annex (i)

Serious Traffic Offences

Category A

Offence Code

Offence

Careless Driving

| | |
|-------------|---|
| CD40 | Causing death through careless driving when unfit through drink |
| CD50 | Causing death through careless driving when unfit through drugs |
| CD60 | Causing death through careless driving with alcohol level above the limit |
| CD70 | Causing death through careless driving then failing to supply a specimen for analysis |

Reckless/Dangerous Driving

| | |
|-------------|---|
| DD40 | Dangerous Driving |
| DD60 | Manslaughter or culpable homicide while driving a vehicle |
| DD80 | Causing death by dangerous driving |

Miscellaneous offences

| | |
|-------------|---------------------------|
| MS50 | Motor racing on a highway |
|-------------|---------------------------|

Theft and unauthorised taking

| | |
|-------------|--------------------------------|
| UT50 | Aggravated taking of a vehicle |
|-------------|--------------------------------|

Any offence of Aiding, Abetting or procuring the above offences.
(Note, the offence code will have the 0 replaced by a 2)

Any offence of Causing or permitting the above offences.
(Note, the offence code will have the 0 replaced by a 4)

Inciting any of the above offences.
(Note, the offence code will have the 0 replaced by a 6)

Category B

Offence Code

Offence

Accident Offences

| | |
|-------------|---|
| AC10 | Failing to stop after an accident |
| AC20 | Failing to give particulars or report an accident within 24 hours |

**Offence
Code** **Offence**

Disqualified driver

BA10 Driving whilst disqualified by order of court
BA 30 Attempting to drive whilst disqualified by order of the Court

Careless Driving

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

Construction and Use Offences

CU10 Using a vehicle with defective brakes
CU20 Causing or likely to cause danger by 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

Drink or Drugs

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 above limit
DR50 In charge of a vehicle while unfit through drink
DR60 Failure to provide specimen for analysis in circumstances other than driving or attempting to drive
DR70 Failing to provide a specimen for breath test
DR80 Driving or attempting to drive when unfit through drugs
DR90 In charge of a vehicle while unfit through drugs

Insurance offences

IN10 Using a vehicle uninsured against third party risks

Licence Offences

LC30 Driving after making a false declaration about fitness when applying for a licence
LC40 Driving a vehicle after having failed to notify a disability

Miscellaneous Offences

MS70 Driving with uncorrected defective eyesight

Any offence of Aiding, Abetting or procuring the above offences.
(Note, the offence code will have the 0 replaced by a 2)

Any offence of Causing or permitting the above offences.
(Note, the offence code will have the 0 replaced by a 4)

Inciting any of the above offences.
(Note, the offence code will have the 0 replaced by a 6)

Note! If any of the offences in Category "B" involve a licensed hackney carriage or private hire vehicle, they will be treated as though they are a Category "A" offence.

Annex (ii)

Other traffic Offences

| Offence Code | Offence |
|---------------------|--|
| LC20 | Driving otherwise than in accordance with a licence |
| LC50 | Driving after a licence has been revoked or refused on medical grounds |
| MS10 | Leaving a vehicle in a dangerous position |
| MS20 | Unlawful pillion riding |
| MS30 | Play street offences |
| MS60 | Offences not covered by other codes |
| 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 a moving vehicle |
| PC30 | Contravention of Pedestrian Crossing Regulations with a stationary vehicle |
| SP10 | Exceeding goods vehicle speed limits |
| 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 |
| SP60 | Undefined speed limit offence |
| TS10 | Failing to comply with traffic light signals |
| TS20 | Failing to comply with double white lines |
| TS30 | Failing to comply with "stop" sign |
| TS40 | Failing to comply with direction of a constable/warden |
| TS50 | Failing to comply with traffic sign (excluding stop signs, traffic lights or double white lines) |
| TS60 | Failing to comply with a school crossing patrol sign |
| TS70 | Undefined failure to comply with a traffic direction sign |

Any offence of Aiding, Abetting or procuring the above offences.
(Note, the offence code will have the 0 replaced by a 2)

Any offence of Causing or permitting the above offences.
(Note, the offence code will have the 0 replaced by a 4)

Inciting any of the above offences.
(Note, the offence code will have the 0 replaced by a 6)

Note! If any of the offences involve a licensed hackney carriage or private hire vehicle, they may be treated as though they are a Category "B" offence under Annex (ii).