



## **POLICY FOR CONVICTIONS FOR HACKNEY CARRIAGE / PRIVATE HIRE DRIVERS**

### **Applicants**

All applicants for hackney carriage or private hire driver licences (“Licences”) are required to declare any convictions or cautions, warnings, fixed penalty notices and DVLA licence endorsements - including any pending convictions and investigations. All applicants must also submit to Disclosure and Barring Service checks. The Council will deal with all information provided in strict confidence. Any information will be retained for no longer than is necessary for the purposes of processing the application for the Licence. On applying for renewal of Licences, applicants will be required to give the above details only for the preceding three years.

### **Driver’s Duty to Inform the Council**

Once a Licence has been granted Drivers are required to inform the Council in writing and within 7 days of any conviction, caution, warning or fixed penalty notice imposed on them since the grant of the Licence. In addition Drivers are required to inform the Council in writing and within 7 days of becoming aware of any pending criminal investigation that concerns them.

### **Consideration of Applications**

Each and every case will be decided on its own merits and in accordance with this policy.

### **Public Safety is the Primary Concern**

Public safety is the primary concern for the licensing of Hackney Carriage and Private Hire Drivers (“Drivers”). The Council has a duty to ensure, so far as possible, that Drivers are “fit and proper” persons to hold Licences. The Council has to consider whether Drivers are fit and proper when they apply for Licences, and it also has to consider whether they remain fit and proper throughout the time that the Licence remains in force.

If a Driver has convictions, cautions, warnings or Fixed Penalty Notices (“Convictions”) for various offences this may mean that such a Driver is not a fit and proper person, and that the Driver should not be licensed. The Council can consider current Convictions and spent Convictions.

A person with a conviction for a serious crime need not be automatically barred from obtaining a Licence but would normally be expected to:-

- remain free from convictions for three to five years
- show sufficient evidence that they are a “fit and proper person” to hold a Licence.
- Simply remaining free from convictions will not generally be regarded as sufficient evidence that a person is a “fit and proper person” to hold a Licence.

Some discretion may be appropriate if the offence is isolated and there are mitigating circumstances. However, the overriding consideration should be the protection of the public.

The following examples afford a general guide on the actions to be taken where convictions are admitted or discovered.

### **Offences of dishonesty**

Drivers 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. Members of the public entrust themselves to the care of Drivers for their own safety and are expected to be dealt with fairly. The Council will take a serious view of any convictions involving dishonesty. In general a period of three to five years free of convictions should be required before considering an application. In particular an application will normally be refused where an applicant has a conviction for:-

- theft
- burglary
- fraud including benefit fraud
- handling or receiving stolen goods
- forgery
- conspiracy to defraud
- obtaining money or property by deception
- other deception
- similar offences of dishonesty where the conviction is less than three years prior to the date of application

After three years have elapsed consideration can be given to the circumstances of the offence and any evidence that the applicant has mended his/her ways and can be considered a “fit and proper person”.

### **Violence**

Drivers have close contact with the public - a firm line should be taken with applicants who have convictions for this type of offence. When the commission of an offence involves loss of life, a Licence will normally be refused. In other cases, a period of three to ten years free from offences involving violence (dependent on the seriousness of the offence) will be required before an application is likely to be considered.

An application will normally be refused where the applicant has a conviction for:-

- murder

- manslaughter
- manslaughter or culpable homicide whilst driving
- similar offences which may have replaced the ones listed.

An application will normally be refused for a period of five years from the date of conviction where the applicant has convictions for:-

- arson
- malicious wounding or grievous bodily harm
- any of the above which are racially aggravated
- grievous bodily harm (GBH) with intent
- wounding with intent
- robbery
- racially aggravated offences of criminal damage
- racially aggravated public order offences (e.g. aggravated fear or provocation of violence, aggravated intentional harassment alarm or distress, aggravated fear of violence)
- riot
- violent disorder
- assaulting a police officer in execution of duty
- possession of offensive weapon or firearm
- similar offences where the conviction is less than five years prior to date of application.

An application will normally be refused for a period of three years from the date of conviction where an applicant has convictions for:-

- common assault including racially aggravated assault
- assault occasioning actual bodily harm
- affray
- racially aggravated public order offence (harassment, alarm or distress)
- obstruction
- criminal damage
- resisting arrest
- similar offences when the conviction is less than three years prior to the date of application.

### **Supply of drugs**

An application will normally be refused when an applicant has a conviction related to the supply of drugs and the conviction is less than five to ten years prior to the date of application. After five years have elapsed, consideration will be given if an applicant can provide evidence that they can be considered a “fit and proper person”.

### **Possession of drugs**

An application will generally be refused where the applicant has more than one conviction relating to the possession of drugs and the conviction is less than five years prior to the date of application. An application from an applicant who has an isolated conviction for possession of drugs within the last three to five years will require serious consideration before a decision is made regarding their suitability.

### **Sexual and indecency offences**

As Drivers often carry unaccompanied passengers, applicants with convictions for rape, indecent assault or similar offences under the Sexual Offences Act will normally be refused a Licence. Applicants with convictions for soliciting or prostitution importuning indecent exposure or like offences under the Sexual Offences Act will normally be refused a Licence until they can show a period of five to ten years free from such a conviction. After five years have elapsed consideration will be given if an applicant can provide evidence that they can be considered a “fit and proper person”.

### **Minor traffic convictions - see Table 1**

Convictions for minor traffic offences will not prevent a person from being considered for a Licence. If an applicant has six live penalty points on their DVLA licence for such offences then the applications may be granted subject to a strong written warning. If an applicant has between six and nine penalty points on their DVLA licence then the applications will be referred to the Public Appeals Committee who may decide to refuse the application or at the very least issue a severe warning that further convictions could lead to revocation. Where an applicant has more than nine penalty points on their DVLA licence they must normally show a period of 12 months free from convictions before their application is considered. A Driver with 12 penalty points is likely to have their Licence revoked. An isolated conviction for, for example, driving without due care and attention should normally merit a warning as to future driving standards expected of Drivers. More than one conviction for this type of offence within the last two years is likely to merit refusal and the decision that no other application should be considered until a period of one to three years free from convictions have elapsed.

In totting up cases where disqualification is considered by the court, even if the court does not disqualify (e.g. exceptional circumstances) the council may still refuse on applications because different criteria apply.

### **Major traffic offences - see Table 2**

If an applicant has live endorsements or has been disqualified from driving in respect of major traffic offences then the application will be referred to the Public Appeals Committee and will normally be refused until at least five years after the most recent such convictions.

In totting up cases where disqualification is considered by the court, even if the court does not disqualify (e.g. exceptional circumstances) the council may still refuse on applications because different criteria apply.

### **Drink Driving / Driving Under the Influence of Drugs**

A serious view should be taken of a person who has been convicted of driving or being in charge of a vehicle while under the influence of alcohol and / or drugs. Applicants must show at least three years free from convictions after the restoration of their DVLA driving licence before their application will be considered. More than one “live” conviction for this type of offence would require a period of at least five years free from convictions before the application would be considered. Such an applicant would also be required to pass a further medical examination, and if found

to be alcoholic or addicted to drugs a further period of five years should elapse after treatment is complete before an application is considered.

### **Alcohol Related Offences Other Than Drink Driving**

An isolated conviction for drunkenness need not debar an applicant from gaining a Licence. However, a number of convictions for drunkenness could indicate a medical problem necessitating medical examination.

### **Offences by licensed Drivers**

Any conviction which results from an offence committed by any person whilst working as a Driver (especially the offence of illegally plying for hire) is regarded as extremely serious and may lead to a Licence being suspended or revoked or an application to renew the Licence being refused. More than one conviction for the above would certainly lead to the Licence being revoked. This includes any offences against the Town Police Clauses Act 1847, The Local Government (Miscellaneous Provisions) Act 1976 or any breach of the conditions or byelaws made under the relevant legislation.

Convictions of any description listed in table 1 committed by Drivers during the duration of their Licence must be declared to the licensing section in writing within seven days of the conviction date.

### **Spent convictions**

Under the Rehabilitation of Offenders Act 1974 convictions become spent as defined below –

Imprisonment of between six and 30 months	Ten years
Imprisonment of up to six months	Seven years
Borstal training	Seven years
Community service order	Five years
Absolute discharge	Six months
Probation order, conditional discharge or bind cover	One year (or until the order expires, whichever is the longer)
Detention centre order	Three years
Remand home, attendance centre or approved school order	The period of the order and a further year after the order expires

Hospital order under the Mental Health Act	The period of the order and a further two years after it expires
Cashiering, discharge with ignominy or dismissal with disgrace from the armed forces	Ten years
Dismissal from the armed forces	Seven years
Detention in HM service	Five years
A fine or other sentence not otherwise covered in this table	Five years

- (i) A sentence of more than 30 months imprisonment can never become spent
- (ii) A person under 17 years of age on the date of conviction should halve the period in the right column.

Drivers are exempt from the provisions of The Rehabilitation of Offenders Act 1974 (Exceptions) (Amendment) Order 2002, Part 1 of Schedule 1, paragraph 12(e).

Applicants must disclose all previous cautions and convictions whether they are spent or not.

**Table 1: Minor traffic offences**

- CU10 Using vehicle with defective brakes
- CU20 Causing or likely to cause danger by reason of use or 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 tyres
- CU40 Using a vehicle with defective steering
- CU50 Causing or likely to cause danger by reason of load or passengers
- 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
- SP60 Exceeding speed limit offence
- MS10 Leaving a vehicle in a dangerous position
- MS40 Driving with uncorrected defective eyesight or refusing to submit to a test
- 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 limit)
- 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.

Causing or permitting, offences as coded above.

Inciting, offences as coded above.

## **Table 2: 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 the court
- BA30 Attempting to drive while disqualified by order of the 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 through careless driving when unfit through drugs
- CD60 Causing death through careless driving with alcohol above limit
- CD70 Causing death by careless driving then failing to supply a specimen for analysis
- CD71 Causing death by careless driving then failing to supply a specimen for drug analysis
- 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
- DR31 Driving or attempting to drive then failing to supply a specimen for drug 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
- DR61 Failure to supply drug specimen for analysis in circumstances driving or 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
- IN10 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.

Causing or permitting offences as coded above.

Inciting offences as coded above.