

CRIMINAL CONVICTIONS POLICY

General Principles

1. In relation to cautions, the Licensing Authority shall have regard to the type and age of the offence and the age of the applicant when the offence occurred, when considering their relevance to an application. Cautions given more than 5 years before the date of application shall be treated as irrelevant.
2. In relation to previous convictions, the Licensing Authority shall have regard to the following:
 1. Whether the convictions are spent or unspent;
 2. The type and relevancy of the offences;
 3. The age of the offences;
 4. The apparent seriousness, as gauged by the penalty.
3. The Licensing Manager or Group Service Manager may deal directly with less serious first offences without referring the matter to the relevant licensing sub-committee. They may choose to take no action or may issue warnings as to future conduct in accordance with this policy.
4. In particular, applicants and current licensees shall be referred to the Licensing Sub-Committee where one or more of the following apply:
 1. Any term of imprisonment or custody;
 2. Any conviction for a sexual offence;
 3. Any conviction for violence or dishonesty which is of a serious nature;
 4. Any serious motoring offence, such as dangerous driving, driving whilst disqualified, or more than one conviction for drink driving;
5. The following guidelines are used to determine the relevance of criminal convictions in relation to applications for hackney carriage and private hire driver's licenses. In so stating, this Licensing Authority has adopted the guidelines set out in the Department of Transport Circular 2/92 and Home Office Circular 13/92, subject to certain limited modifications.

General Policy

- 6 Each case shall be decided on its own merits.
- 7 A person with a current conviction for serious crime need not be permanently barred from obtaining a licence but should be expected to remain free of conviction for 3 to 5 years according to the circumstances before an application is entertained. 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.
- 8 The following examples afford a general guide on the action to be taken where convictions are admitted.

Minor traffic offences

9. Convictions for minor offences e.g. obstruction, waiting in a restricted street, speeding etc.,

should not prevent a person from proceeding with an application. However, the number, type and frequency and repetition of these types of offences may be taken into account. If sufficient points have been accrued to require a period of disqualification of the applicants DVLA driving licence then a hackney carriage/private hire drivers licence may be granted after its restoration but a warning should be issued as to future conduct. Holders of council issued drivers licences convicted during the period of licence of such offences may be warned as to future conduct, and any disqualification from driving will lead to an automatic suspension of any hackney carriage/private hire drivers licence issued by the council. Reinstatement of a drivers licence may be made following a review by the licensing sub-committee.

Major motoring offences

10. An isolated conviction for reckless driving or driving without due care and attention etc should normally merit a warning as to future driving and advice on the standard expected of hackney carriage and PHV drivers. More than one conviction for this type of offence within the last 2 years should merit refusal and no further application should be considered until a period of 3 years free from conviction has elapsed. Similarly, any conviction during the period of a council issued licence will lead to a warning as to future conduct and repeated offences within a two year period shall merit consideration of the revocation of that licence. No further application shall be considered until a period of 3 years free from conviction has elapsed.

Drunkenness

(a) With a motor vehicle

11. A serious view shall be taken of convictions for driving or being in charge of a motor vehicle under the influence of drink. An isolated incident in the past should not necessarily debar an applicant but a strict warning should be given as to future behaviour. More than one conviction for these offences shall raise grave doubts as to the applicant's fitness to hold a hackney carriage/private hire drivers licence. At least 3 years should elapse after the restoration of the DVLA driving licence before an application can be considered for a Council issued drivers licence. A licensed driver found guilty of driving whilst under the influence of alcohol shall have their council issued drivers licence revoked. Re-consideration of the granting of a new licence shall not be entertained for a minimum period of three years after restoration of the DVLA driving licence.
12. If there is any suggestion that the applicant is an alcoholic, a special medical examination should be arranged before the application is entertained. If the applicant is found to be an alcoholic a period of 3 years must elapse after treatment is complete before a further licence is considered.

(b) Not in motor vehicle

13. 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 critical examination. In some cases, a warning would be sufficient. A conviction of this type of offence during the period of a council issued licence could warrant a warning as to future conduct, with subsequent convictions possibly leading to suspension and/or revocation of any licence held.

Drugs

14. An applicant with a conviction for a drug related offence should be required to show a period of at least 3 years free of convictions before an application is entertained, or 5 years after detoxification treatment if he/she was an addict. A driver found guilty of driving whilst under the influence of drugs, or found guilty of any drug related offence shall have their council issued drivers licence suspended and consideration given for the revocation the licence. Re-consideration of the granting of a new licence shall not be entertained for a minimum period of three years, free from conviction.

Indecency offences

15. As hackney carriage and private hire drivers often carry unaccompanied and/or vulnerable passengers, applicants with convictions for indecent exposure, indecent assault, importuning, or any of the more serious sexual offences, shall be refused a licence until they can show a substantial period free of such offences. Each case shall be treated on its merits. A conviction of this kind shall preclude consideration for at least five years. If a licence is issued by the council then a strict warning as to future conduct should be issued. A licensed driver found guilty of indecency offences during the period of the council issued licence shall have their council issued drivers licence suspended and consideration given for the revocation the licence. Re-consideration of the granting of a new licence shall not be entertained for a minimum period of five years free from conviction.

Violence

16. As hackney carriage and private hire drivers maintain close contact with the public, a firm line shall be taken with applicants who have convictions for grievous bodily harm, wounding or assault. At least 3 years free of such convictions should be shown before an application is entertained and a strict warning shall be administered. A licensed driver found guilty of violence related offences shall have their council issued drivers licence suspended and consideration given for the revocation the licence. Re-consideration of the granting of a new licence shall not be entertained for a minimum period of three years, free from conviction.

Dishonesty

17. Hackney carriage and private hire drivers are expected to be persons of trust. The widespread practice of delivering unaccompanied property, taking children to school and families on holiday is indicative of the trust people place in drivers. Moreover, it is comparatively easy for a dishonest driver to defraud the public by demanding more than the legal fare. Overseas visitors can be confused by the change in currency and become "fair game" for an unscrupulous driver. For these reasons a serious view should be taken of any convictions involving dishonesty. In general, a period of at least 3 years free of conviction shall be required before entertaining an application. Any existing driver convicted of offences of dishonesty shall have their council issued drivers licence suspended and consideration given for the revocation the licence. Re-consideration of the granting of a new licence shall not be entertained for a minimum period of three years, free from conviction.

Insurance Offences

19. A serious view will be taken of convictions for driving or being in charge of a vehicle without the correct type of insurance. An isolated incident in the past will not necessarily debar an applicant provided he/she has been 3 years free of conviction unless there are exceptional circumstances. A strict warning shall be given as to future behaviour. More than one conviction for these offences will raise grave doubts as to the applicant's fitness to hold a hackney carriage and private hire drivers licence unless there are exceptional circumstances. At least three years free from conviction shall elapse before an applicant is considered for a council issued licence. A driver found guilty of driving passengers for hire and reward without the appropriate insurance will have his licence suspended and consideration given for the revocation the licence. A new application from a person whose licence has been revoked will not be considered for a period of three years, free of conviction.

PRINCIPLES OF THE REHABILITATION OF OFFENDERS ACT 1974

The following offers guidance only and the Act should be consulted for definitive interpretation of the legislation.

- (1) Under the 1974 Act, criminal convictions can become spent after a certain period of time, and once spent, for many purposes, can be disregarded completely.
- (2) The possibility of rehabilitation and the length of time before rehabilitation occurs depends on the sentence imposed, and not the offence committed.
- (3) Where a person is sentenced to imprisonment for a period exceeding 30 months, the conviction can never become spent.
- (4) Despite the above, **the principles of the Act do not apply to applicants for hackney carriage and private hire drivers’ licences**. This is because the driving of taxis is listed as a “Regulated Occupation” in relation to which questions may be asked as to the suitability of individuals to be granted a licence.
- (5) Although the Act does not prevent judicial authorities (inclusive of the Licensing Authority) from taking spent convictions into account; such convictions are only admissible in so far as they are relevant to the issue as to whether the applicant is a fit and proper person to hold a licence.

Sentence	Becomes Spent After
Prison sentences ¹ of 6 months or less	7 years
Imprisonment of between 6 months and 30 months	10 years
Borstal (abolished in 1988)	7 years
Detention centers (abolished in 1988)	3 years
Fines ² , compensation, probation ³ , community service ⁴ , combination ⁵ , action plan, curfew, drug treatment and testing and reparation orders	5 years
Absolute discharge	6 months
Probation order or conditional discharge	1 year or until order expires whichever is the longer
Detention centre order	3 years
Remand home, attendance centre or approved school order	The period of the order plus 1 year
Hospital order under the Mental Health Act	The period of the order plus 2 years
Cashiering, discharge with ignominy, or dismissal with disgrace from the Armed Forces	10 years
Dismissal from Armed Forces	7 years

¹ Including suspended sentences, youth custody (abolished in 1988) and detention in a young offenders institution (abolished for those under 18 in 2000 and for those aged 18-21 in 2001)

² Even if subsequently imprisoned for fine default.

³ For people convicted on or after 3 February 2005. These orders are now called community rehabilitation orders.

⁴ These orders are now called community punishment orders.

⁵ These orders are now called community punishment and rehabilitation orders.

For convictions imposed when under the age of 17 years, halve the period shown for when convictions become spent.