

HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES – LICENSING OF INDIVIDUALS

GUIDELINES RELATING TO THE RELEVANCE OF CRIMINAL BEHAVIOUR

General Policy

1. Each case will be decided on its own merits.
2. The overriding consideration is the safety of the public. The Council should 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 to abuse, assault or otherwise mistreat passengers. Members of the public entrust themselves to the care of drivers both for their own safety and for fair dealing. Passengers may be especially vulnerable people; the widespread use of hackney carriage and private hire vehicles by Council departments and voluntary agencies working with children and adults with special needs is indicative of the trust those bodies place in drivers. 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. Overseas visitors can be confused by the change in currency and become "fair game" for an unscrupulous driver.
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.
4. 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 should be taken into account. A particularly serious view may be taken where the victim of the offence is especially vulnerable.
5. Any changes in legislation will be dealt with as appropriate.

6. Applicants or licence holders who had attended police training schemes would have such attendance taken into account.
7. The following examples afford a general guide on the action which might be taken where convictions, cautions and endorsable fixed penalties are disclosed, or where offending behaviour is proved to the satisfaction of the Council and reference to conviction should be construed accordingly.

(a) Offences of Dishonesty

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, e.g. by demanding more than the legal fare .

For these reasons a serious view is taken of any convictions involving dishonesty. In general, a period of 3 to 5 years free of conviction will be required before an application is likely to be considered favourably.

In particular, an application will normally be refused where the applicant has a conviction for an offence where the victim has been deprived of money, property or other benefit by misrepresentation/deception on the part of the offender, including:

- Theft
- Burglary
- Fraud
- Benefit fraud
- Handling or receiving stolen goods
- Forgery
- Conspiracy to defraud
- Obtaining money or property by deception

and the conviction is less than 3 years prior to the date of the application.

Between 3 and 5 years after conviction more weight will be given to the circumstances of the offence and any evidence adduced to show good character since the date of conviction.

(b) Violence

As hackney carriage and private hire drivers have close contact with the public, in general a period of 5 to 10 years free of

conviction for offences involving violence (depending on the nature and seriousness of the offence) will be required before an application is likely to be considered favourably.

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

Arson

Malicious wounding or grievous bodily harm ? which is racially aggravated (s.29(1)(a) Crime and Disorder Act 1998)

Grievous bodily harm with intent

Actual bodily harm ? which is racially aggravated (s.29(1)(b) Crime and Disorder Act 1998)

and the conviction is less than 10 years prior to the date of application.

(ii) An application will normally be refused where the applicant has a conviction for an offence of:-

Grievous bodily harm

Robbery

Racially-aggravated criminal damage

Racially-aggravated s.4 Public Order Act 1986 offence

Racially-aggravated s.4A Public Order Act 1986 offence

Racially-aggravated s.2 Protection from Harassment Act 1997 offence

Racially-aggravated s.4 Protection from Harassment Act 1997 offence?(s.32(1)(b) Crime and Disorder Act 1998)

and the conviction is less than 8 years prior to the date of application

Between 8 and 10 years after conviction more weight will be given to the circumstances of the offence and any evidence adduced to show good character since the date of conviction.

(iii) An application will normally be refused where the applicant has a conviction for an offence of:-

Common assault

Common assault which is racially aggravated

Assault occasioning actual bodily harm

Assault police
Affray
Racially aggravated s.5 Public Order Act 1986 offence
Riot
Obstruction
Possession of offensive weapon
Possession of firearm
Criminal damage
Violent disorder
Resisting arrest

and the conviction is less than 5 years prior to the date of application.

Between 5 and 8 years after conviction more weight will be given to the circumstances of the offence and any evidence adduced to show good character since the date of conviction.

(c) Drugs

An application will normally be refused where the applicant has a conviction for a drug related offence and the conviction is less than 5 years prior to the date of application.

In addition applicants will normally be required to show a period of at least 5 years free from taking drugs and/or 5 years after detoxification treatment if (s)he was an addict.

The nature, quantity and class of drugs will be taken into account. Each case will be considered on its own merit.

(d) Indecency Offences

As hackney carriage and private hire drivers often carry unaccompanied passengers convictions for indecency offences will be treated particularly seriously.

(i) *Very serious sexual offences*

An application will normally be refused where the applicant has a current conviction for an offence contained in Appendix IV

and (subject to the provisions of the following paragraphs (d(iii))) the conviction is less than 15 years prior to the date of the application.

(ii) *Serious sexual offences*

Where the applicant has a current conviction for an offence contained in Appendix V they will (subject to the provisions of the following paragraphs (d(iii))) normally be refused a licence until they can show a substantial period (usually between 5 and 15 years) free from any such conviction.

(iii) *Children and other vulnerable persons*

Where the sexual offences listed in Appendices IV and V have been committed involving children or other especially vulnerable persons, it is highly unlikely that an applicant would be in a position to satisfy the fit and proper person test, having regard in particular to the higher risk, when compared to other crime, that such offending behaviour would be repeated. Generally such offending conduct will permanently debar an applicant. Departure from this policy will only be made in the most exceptional of circumstances. Such exceptional circumstances are unlikely to be shown in the absence of an application being supported by persuasive evidence of the applicant's suitability, which should include a full risk assessment from suitably qualified professionals. Where the offender occupied a position of trust in relation to the victim this will be considered a further aggravating factor. This paragraph applies in respect of any sexual offending behaviour where the aggravating features described above feature and to the specific offences listed in Appendix VI.

(e) *Motoring Convictions*

(i) *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.

A list of offences to which this paragraph applies is attached as Appendix 1.

(ii) 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 12 or more penalty points on his DVLA licence (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 is attached as **Appendix II.**

(iii) Hybrid Traffic Offences

Offences of the type listed in **Appendix III** will be treated as major traffic offences if 4 or more penalty points were imposed for the offence and as minor traffic offences if 3 or fewer penalty points for the offence.

(iv) Disqualification

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.

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.

In "totting-up" cases where disqualification is considered by the court, even if the court does not disqualify a driver, (e.g. because satisfied of exceptional hardship) the Council is likely to refuse a hackney carriage or private hire driver's licence because different criteria apply and 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.

(f) Offences under the Town Police Clauses Acts and Part of the Local Government (Miscellaneous Provisions) Act 1976

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 and when considering the impact of such conduct on an existing licensee.

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.

(g) Drunkenness

(i) *With a motor vehicle*

A serious view will be taken of convictions of driving or being in charge of a vehicle while under the influence of drink. Where a disqualification has occurred as a result of a drink-driving offence, at least 5 years free from conviction should elapse after the restoration of the DVLA licence before an applicant is granted a licence.

An isolated conviction for drunkenness, without disqualification, 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. More than one conviction for this type of offence or one such offence within the last five years is likely to merit refusal.

In addition, applicants will normally be required to show a period of at least 5 years has elapsed after completion of detoxification treatment if (s)he was an alcoholic.

(ii) *Not in a motor vehicle*

An isolated conviction for drunkenness need not debar an applicant from gaining a licence. In some cases, a warning may

be appropriate. However, a number of convictions for drunkenness could indicate a medical problem necessitating critical examination and refusal of a licence.

In addition, applicants will normally be required to shown a period of at least 5 years has elapsed after completion of detoxification treatment if (s)he was an alcoholic.

MAJOR TRAFFIC OFFENCES
(Paragraph (e)(i) refers)

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
BA20	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
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 the 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
IN10	Using a vehicle uninsured against third party risks
LC20	Driving otherwise than in accordance with a licence

LC30 Driving after making 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. IN16 becomes IN16)

Appendix II

MINOR TRAFFIC OFFENCES (*Paragraph (e)(ii) refers*)

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

Appendix III

HYBRID TRAFFIC OFFENCES (*Paragraph (e)(iii) refers*)

- 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

- 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 Undefined speed limit offence

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)

Appendix IV

VERY SERIOUS SEXUAL OFFENCES *(paragraph d(i) refers)*

Rape
Assault by penetration
Sexual assault
Causing a person to engage in sexual activity without consent;
Administering a substance with intent;
Committing an offence with intent to commit a sexual offence;
Trespass with intent to commit a sexual offence;
Sex with an adult relative: penetration;

Appendix V

SERIOUS SEXUAL OFFENCES *(paragraph d(ii) refers)*

Soliciting;
Importuning;
Causing or inciting prostitution for gain;
Controlling prostitution for gain;
Keeping a brothel used for prostitution;
Sex with an adult relative: consenting to penetration;
Exposure;
Voyeurism;
Intercourse with an animal;
Sexual penetration of a corpse;
Sexual activity in a public lavatory

Appendix VI

SPECIFIC SEXUAL OFFENCES INVOLVING CHILDREN OR VULNERABLE ADULTS *(paragraph d(iii) refers)*

Rape of a child under 13;
Assault of a child under 13 by penetration;
Sexual assault of a child under 13;
Causing or inciting a child under 13 to engage in sexual activity;
Sexual activity with a child;
Causing or inciting a child to engage in sexual activity;

Engaging in sexual activity in the presence of a child;
Causing a child to watch a sexual act;
Child sex offences committed by children or young persons;
Arranging or facilitating commission of a child sex offence;
Meeting a child following sexual grooming etc.;
Abuse of position of trust: sexual activity with a child;
Abuse of position of trust: causing or inciting a child to engage in sexual activity;
Abuse of position of trust: sexual activity in the presence of a child;
Abuse of position of trust: causing a child to watch a sexual act;
Sexual activity with a child family member;
Inciting a child family member to engage in sexual activity;
Sexual activity with a person with a mental disorder impeding choice;
Causing or inciting a person, with a mental disorder impeding choice, to engage in sexual activity;
Engaging in sexual activity in the presence of a person with a mental disorder impeding choice;
Causing a person, with a mental disorder impeding choice, to watch a sexual act;
Inducement, threat or deception to procure sexual activity with a person with a mental disorder;
Causing a person with a mental disorder to engage in or to agree to engage in sexual activity by inducement, threat or deception;
Engaging in sexual activity in the presence, procured by inducement, threat or deception, of a person with a mental disorder;
Causing a person with a mental disorder to watch a sexual act by inducement, threat or deception;
Care workers: sexual activity with a person with a mental disorder;
Care workers: causing or inciting sexual activity;
Care workers: sexual activity in the presence of a person with a mental disorder;
Care workers: causing a person with a mental disorder to watch a sexual act ;
Paying for sexual services of a child;
Causing or inciting child prostitution or pornography;
Controlling a child prostitute or a child involved in pornography;
Arranging or facilitating child prostitution or pornography;
Trafficking into the UK for sexual exploitation;
Trafficking within the UK for sexual exploitation;
Trafficking out of the UK for sexual exploitation;
Section 72 Sexual Offences Act 2003: Offences outside the United Kingdom;

Offences involving the making/distributing/viewing/possessing etc of any indecent photograph or pseudo - photograph of a child.