

Guidelines For Issue Of Hackney Carriage And Private Hire Vehicle Driver Licences To Applicants With Previous Criminal Convictions

The existence of previous criminal convictions may have major implications upon the suitability of an applicant for a hackney carriage or private hire driver's licence. The purpose of these Guidelines is to assist applicants with how the Council will consider their applications.

1. "Spent" Convictions

- 1.1 There are certain sentences which, when imposed, mean that they can never be spent. However, there are others which in due course can become spent. To avoid any confusion, the Council requires applicants to disclose all criminal convictions.
- 1.2 Convictions, in respect of which the applicant has since become rehabilitated under the Rehabilitation of Offenders Act 1974, will generally be disregarded but may be taken into account in exceptional circumstances. A summary of the rehabilitation periods applicable to certain sentences is set out at the end of these guidelines.

2. Applicants who have been Disqualified from Driving

- 2.1 Where the applicant has been disqualified from driving for a single offence involving drinking, a licence will not normally be issued until the applicant has since the expiry of the period of disqualification, held a full drivers licence for a continuous period of four years without further conviction. The four year period is liable to be extended if more than one drink driving offence has been committed and the convictions are not spent under the provisions of the Rehabilitation of Offenders Act, 1974.
- 2.2 Where the applicant has been disqualified from driving, but the offence(s) and convictions leading to disqualification do not relate to drinking, a licence will not normally be issued until four years have elapsed since the conviction and the applicant has held a full driving licence for a continuous period of three years without further conviction.
- 2.3 Where the applicant has been convicted and sentenced to a term of imprisonment for a motoring offence, a licence will not normally be issued until either the rehabilitation period for the term of imprisonment has expired or the period applicable in subparagraphs 2.1 or 2.2 has expired, whichever is the longer.

Motoring Offences

- 2.1 It is common on motoring offences, for a fine to be imposed as well as penalty points to be endorsed on a driver's DVLA licence. Under the Rehabilitation of Offenders Act 1974, the rehabilitation period in respect of the fine is five years but, under the Road Traffic Offenders Act 1988, penalty points are only taken into account for a period of three years commencing with the date of the offence in respect of which they are imposed.
- 2.2 Up to a total of six current penalty points on an applicants DVLA licence will generally be accepted as satisfactory for the purpose of granting a licence. However, the Council may take into consideration other unspent convictions, such as driving without insurance, if the applicant's driving record is of concern.
- 2.3 Applicants with seven to nine current penalty points on their DVLA licence will receive special consideration. In all considerations, regard will be had to the applicant's previous driving record, including spent convictions, before a decision is taken as to whether to grant the driver a hackney carriage or private hire driver's licence.
- 2.4 Existing drivers with seven or more points on their DVLA Licence, who have not previously taken the Driving Standards Agency driving test, will be required to take the DSA Test at their own expense, before they can be licensed to drive a hackney carriage or private hire vehicle.
- 2.5 Ten penalty points will not normally be considered satisfactory for the purpose of granting a private hire or hackney carriage driver's licence.

3. Criminal Convictions (non-motoring)

- 3.1 A licence will not normally be granted where the applicant has been convicted of an offence of dishonesty, violence, a sexual offence or an offence relating to alcohol, drugs or noxious substances (known as "a relevant offence") and has not yet been rehabilitated in respect of that offence.
- 3.2 Where the offence is not of a nature which would have any bearing on whether the applicant is a fit and proper person to hold a driver licence, then normally such conviction will be disregarded.
- 3.3 Where the conviction would otherwise be "spent" but for a subsequent conviction and that subsequent conviction falls within the scope of 4.2 above, then both convictions may be disregarded.

4. General

- 4.1 Each application must be considered on its own merits. It may be that, having regard to the particular circumstances of any application, it would be proportionate and reasonable to depart from the above-mentioned guidelines.
- 4.2 Initial consideration of an application will be undertaken by the Licensing Officer. If this initial consideration reveals that there are reasons why the application is likely to be refused, the applicant will be given the opportunity to submit written representations. Any representations received from an applicant will be placed before the Legal Services Manager for consideration together with the report of the Licensing Officer. (The Legal Services Manager will not have previously seen the report and any additional information will only be reported after the applicant has been given the opportunity to comment.)
- 4.3 All applications for licences to drive hackney carriage and private hire vehicles will be determined by the Legal Services Manager in accordance with powers delegated to her by the Council, under the scheme of Delegation of Functions to Officers.

5. Summary of Rehabilitation Periods Applicable to Certain Sentences (Section 5 Rehabilitation of Offenders Act 1974)

- (i) A sentence of imprisonment, including suspended sentences, detention in a young offenders institution or youth custody or corrective training for a term exceeding six months but not exceeding thirty months.

Rehabilitation Period: Ten Years

- (ii) A sentence of imprisonment, including suspended sentences, detention in a young offenders institution or youth custody or corrective training for a term not exceeding six months.

Rehabilitation Period: Seven Years

- (iii) A fine or any other sentence subject to rehabilitation not being a sentence to which (iv), (v), (vi) and (vii) apply.

Rehabilitation Period: Five Years

- (iv) An order discharging, binding over to keep the peace.

Rehabilitation Period: Six months from the date of conviction

- (v) Conditional discharge, binding over to keep the peace.

Rehabilitation Period: One year from the date of conviction or a period beginning with that date and ending when the order for conditional discharge or (as the case may be) the recognisance or bond of caution to keep the peace or be of good behaviour ceases or ceased to have effect, whichever is the longer.

- (vi) Probation, Community Service and Community Orders

Rehabilitation Period: The rehabilitation period applicable to the sentence shall be:

- (a) in the case of a person aged eighteen years or over at the date of his conviction, five years from the date of conviction.

- (b) In the case of a person aged under the age of eighteen years at the date of his conviction, two and a half years from the date of conviction or a period beginning with the date of conviction and ending when the probation order ceases or ceased to have effect, whichever is the longer.

- (vii) An order imposing any disqualification, disability, prohibition or other penalty.

Rehabilitation Period: Period from the date of conviction and ending on the date on which the disqualification, disability, prohibition or penalty ceases or ceased to have effect.

5.1 In general, where more than one sentence is imposed in respect of a conviction and the rehabilitation periods applicable would differ, then the rehabilitation period applicable shall be longer or the longest of those periods.

5.2 Penalty points on DVLA driver licences are only taken into account under the 'totting up' procedure for three years from the date of the offence and the penalty points can be removed from the licence after four years. However, the rehabilitation period for any other penalty imposed at the same time, such as a fine or prison sentence, is determined by the provisions of the Rehabilitation of Offenders Act, 1974 as summarised above.