

GUIDELINES FOR THE GRANTING RENEWAL OF LICENCES OF HACKNEY CARRIAGE AND PRIVATE HIRE DRIVERS WITH CONVICTIONS

1. GENERAL PRINCIPLES.

At all times the Council's highest priority will be the protection of passengers and other road users.

In pursuing these Guidelines the Council will not operate a blanket ban on issuing licenses to drivers with a criminal record. However, where the individuals conviction(s) are contained within Schedule 4. Criminal Justice and Court Services Act 2000, offences against children, see Annex 1, or where the individual appears on the Protection of Vulnerable Adults/Children list then there will be a presumption that a licence will be refused or revoked.

Decisions will be made on an individual case by case basis.

Applicants who have their application for grant or renewal refused may appeal the Councils decision to a Magistrates Court within 21 days of the notification.

2. REHABILITATION OF OFFENDERS ACT

Under the Rehabilitation of Offenders Act 1974, certain convictions become spent. However, the Act does not apply to hackney carriage/private hire drivers. Accordingly applicants must disclose ALL Police Cautions on their application forms.

Failure to disclose all convictions and or Police Cautions may result in the application being refused and the applicant being prosecuted.

3. PROCESS RELEVANCE OF CONVICTION(S)

- (a) Each application will be determined on its own merits
- (b) A person with a conviction for serious crime need not be permanently barred from obtaining a licence but would normally have been expected to remain free of conviction for 7 to 10 years, according to the circumstances before an application is entertained. The over-riding consideration will be the protection of the public.
- (c) The following examples afford a guide on the action that will be taken where convictions are disclosed.



1) Minor Traffic Offences (speeding, failure to conform to traffic signal etc)

A current conviction for a minor traffic offence should not prevent a person proceeding with an application.

6 current penalty points, a nine month licence should be considered.

7 to 9 current penalty points, a six month licence should be considered.

10 or more current penalty points, refusal, revocation should be considered.

Should a licence be granted to any person with the above penalty points a written warning will be given stating that any conviction within the next twelve months may result in their being revoked.

With respect to applicants who may have no current penalty points but have a history of repeat offending consideration will be given to refusal. If after consideration it is agreed that a licence should be granted, a six month licence may be granted with a written warning that any further conviction within the following twelve months may result in the licence being revoked.

2) Serious Traffic Offences (driving without due care and attention, reckless driving Etc)

A current conviction for a serious offence traffic offence will not necessarily mean that the application will be refused outright. Consideration may be given to three month licence being granted with a written warning that any conviction within the following twelve months may result in the licence being revoked.

Where there are 2 or more current convictions, consideration should be given to refusal/ revocation.

Where an applicant has no current convictions, but has a conviction within the last 6 years consideration should be given to the issue of a six month licence with a written warning that any conviction within the following twelve months may result in the licence being revoked.

Where an applicant has no current convictions, but has two or more convictions within the last 6 years consideration should be given to refusal.

3) Driving Under Influence of Drink, Drugs, Fail to Provide Breath Test

Where an applicant has a current conviction for any of the above consideration will be given to refusal/revocation.

Where an applicant has no current conviction, but was convicted within the last 7 years, consideration will be given to a grant of a six month licence with a written warning that any conviction within the following twelve months may result in the licence being revoked.

Where an applicant has no current convictions but has been convicted two or more times within the last 10 years consideration will be given to refusal/revocation.

4) Disqualification under Totting up Procedure (excluding conviction for no Insurance).

Where a period of disqualification has been imposed (or may have but due to 'special reasons' arguments it was not) within the last 2 years consideration will be given to refusal/revocation.

Where a period of disqualification has been imposed (or may have but due to 'special reasons' arguments it was not) within the last 3 to 5 years, consideration will be given to the grant of a six month licence with a written warning that any conviction within the next twelve months may result in the licence being revoked.

5) Convictions for No Insurance

Where an applicant has a current conviction for no insurance consideration will be given to refusal/revocation.

Where an applicant has a conviction for no insurance between 4 and 5 years ago consideration will be given to granting a six month licence with a written warning that any conviction within the following twelve months may result in the licence being revoked.

6) Drug Related Offences* (also see Annex 1)

Where an applicant has a current conviction or been convicted within the last 7 years consideration will be given to refusal/ revocation

Where an applicant has a conviction over 7 years ago consideration will be given to a six month licence with a written warning that any conviction within the following twelve months may result in the revocation of the licence.

Where there is a history of drug related offences consideration will be given to refusal.

7) Offences of Violence* (also see Annex 1)

Where an applicant has a current conviction or been convicted within the last 7 years consideration will be given to refusal/revocation.

Where an applicant has a conviction over 7 years ago consideration will be given to a six month licence with a written warning that any conviction within the following twelve months may result in the revocation of the licence.

Where there is a history of violence consideration will be given to refusal

8) Possession of Obscene Material* (also see Annex 1)

Where an applicant has a conviction within the last 7 years consideration should be given to refusal/revocation.

Where applicant has a conviction over 7 years but less than 10 years consideration shall be given to a six month licence with a written warning stating that any conviction within the following twelve months may result in the revocation of the licence.

Where an applicant has two or more convictions consideration will be given to refusal/revocation.

9) Dishonesty*

Where an applicant has a conviction within the last 7 years consideration will be given to refusal/revocation.

Where an applicant has a conviction over 7 years but within 10 years consideration will be given to a six month licence with a written warning stating that any conviction within the following twelve months may result in the revocation of the licence.

Where an applicant has two or more convictions consideration should be given to refusal/revocation.

10) Arson*

Where an applicant has a conviction within the last 10 years consideration will be given to refusal/revocation.

Where an applicant has a conviction over 10 years but under 15 years consideration will be given to a six month licence with a written warning that any conviction within the following twelve months may result in the revocation of the licence.

Where an applicant has more than one conviction within 15 years consideration will be given to refusal/revocation.

11) Kidnap* (also see Annex)

Where an applicant has a conviction within the last 10 years consideration will be given to refusal/revocation.

Where an applicant has a conviction over 10 years but under 15 years consideration will be given to a six month licence with a written warning that any conviction within the following twelve months may result in the revocation of the licence.

Where an applicant has more than one conviction consideration should be given to refusal/revocation.

12) Blackmail*

Where an applicant has a conviction within the last 10 years consideration should be given to refusal/revocation.

Where an applicant has a conviction over 10 years but under 15 years consideration will be given to a six month licence with a written warning that any conviction within the following twelve months may result in the revocation of the licence.

Where the applicant has more than one conviction consideration should be given to refusal/revocation.

*** Indicates period free of conviction taken from the date the applicant was released from prison or from the date of the end of the specific order/requirement, whichever is the longer.**

N.B. Where a written warning has been issued regarding the committing of any offence within the following twelve month period. Serious consideration should be given to revoking the licence. Where, after consideration it is considered inappropriate to revoke the licence it may be appropriate to issue a licence for a shorter period with a further letter of warning.

Intercourse with a defective (child)	s.7 Sexual Offences Act 1956
Procurement of a defective (child) to have sexual intercourse	s.9 Sexual Offences Act 1956
Incest by a man (having sexual intercourse with a child)	s.10 Sexual Offences Act 1956
Incest by a woman (having sexual intercourse with a child)	s.11 Sexual Offences Act 1956
Buggery with a child under 16	s.12 Sexual Offences Act 1956
Gross indecency with a child under 16	s.13 Sexual Offences Act 1956
Abduction of defective (child) from parent or guardian	s.21 Sexual Offences Act 1956
Causing prostitution of a woman (child)	s.22 Sexual Offences Act 1956
Procuring a girl under 21 (child) to have sexual intercourse with a third person	s.23 Sexual Offences Act 1956
Permitting a defective (child) to use premises for intercourse	s.27 Sexual Offences Act 1956
Causing or encouraging prostitution of a defective (child)	s.29 Sexual Offences Act 1956
Male living on earnings of prostitution (of a child)	s.30 Sexual Offences Act 1956
Female exercising control over prostitute (child)	s.31 Sexual Offences Act 1956
Sexual intercourse with patient (child)	s.128 Mental Health Act 1959
Procuring: <ul style="list-style-type: none"> • A person (child) to commit buggery with any person; or • Any person to commit buggery with a person (child) 	s.4 Sexual Offences Act 1967
Living on earnings of male prostitution (child)	s.5 Sexual Offences Act 1967
Burglary with intent to rape (a child)	s.9 (1)(a) Theft Act 1968
<ul style="list-style-type: none"> • Supplying or offering to supply a class A drug • Being concerned in the supplying of such a drug • Being concerned in the making of an offer to supply such a drug (to a child) 	s.4(3) Misuse of Drugs Act 1971
Aiding, abetting, counselling, procuring or inciting the commission of an offence against a child; or conspiring or attempting to commit such an offence	Common Law
SCHEDULE 4 CRIMINAL JUSTICE AND COURT SERVICES ACT 2000 OFFENCES AGAINST A CHILD	
Cruelty to children	s.1 Children and Young Persons Act 1933
Infanticide	s.1 Infanticide Act 1938
Intercourse with a girl under 13	s.5 Sexual Offences Act 1956
Intercourse with a girl under 16	s.6 Sexual Offences Act 1956
Abduction of a girl under 18 or 16	ss.19 & 20 Sexual Offences Act 1956
Permitting a girl under 13, or between 13 and 16, to use premises for intercourse	ss.25 & 26 Sexual Offences Act 1956
Causing or encouraging prostitution of, intercourse with or indecent assault on a girl under 16	s.28 Sexual Offences Act 1956

Indecent conduct towards a young child	s.1 indecency with Children Act 1960
Inciting a girl under 16 to incest	s.54 Criminal Act 1977
Indecent photographs of children (taking, distributing etc)	s.1 Protection of Children Act 1978
Abduction of child by parent	s.1 Children Abduction Act 1984
Possession of indecent photograph of child	s.160 Criminal Justice Act 1988
Abuse of trust	s.3 Sexual Offences (Amendment) Act 2000
Murder	Common Law
Manslaughter	Common Law
Kidnapping	Common Law
False imprisonment	Common Law
Wounding and causing grievous bodily harm	ss.18 & 20 Offences Against the Person Act 1861
Assault occasioning actual bodily harm	SA7 Offences Against the Persons Act 1861
Rape	s.1 Sexual Offences Act 1956
Procurement of woman by threats or false pretences	ss.2 & 3 Sexual Offences Act 1956
Administering drugs to obtain or facilitate intercourse	s.4 Sexual Offences Act 1956
Indecent assault	s.14 & 15 Sexual Offences Act 1956
Assault with intent to commit buggery	s.16 Sexual Offences Act 1956
Abduction of a woman by force or for the sake of her property	s.17 Sexual Offences Act 1956
Detention of a woman in a brothel or other premises	s.24 Sexual Offences Act 1956
Threats to kill a child	s.16 Offences Against the Person Act 1861

References: Blackstone's Police Manual – Crime

Further Information: Home Office Circular 45/2000, DfES 'Procedures for Barring or Restricting People Working with Children in Education.

Appendix C

OFFENCES WHICH WILL BE REFERRED TO HACKNEY CARRIAGE AND PRIVATE HIRE PANEL

1. Drug related offences
2. Offences of violence
3. Offences of dishonesty
4. Offences of arson
5. Offences of kidnap
6. Offences of blackmail
7. Offences of indecency

N.B. The above offences will be referred to the Panel when officers are mindful to grant a license.