

# Appendix H

## Guidelines Relating to the Relevance of Convictions

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 taken account of the guidelines set out in the DOT Circular 2/92 and HO Circular 13/92, and modified them as appropriate for its needs.

### General Policy

- 1 Each case will be decided on its own merits.
- 2 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.
- 3 The following examples afford a general guide on the action to be taken where convictions are admitted.

#### **(a) Minor traffic offences**

Convictions for minor endorseable traffic offences such as speeding, traffic signal matters etc should not prevent a person from proceeding with an application. If sufficient penalty points have been accrued to require a period of disqualification of the applicant's driving licence then a hackney carriage or private hire vehicle driver's licence may be granted after the restoration of the DVLA driving licence, but only after a period of 12 months has elapsed since the expiry of the disqualification or from the date of any subsequent conviction.

In circumstances where a driver acquires 12 or more penalty points on his DVLA driving licence but is not disqualified from driving because of the mitigating circumstances put before the magistrates' court, the Licensing Authority may still revoke or suspend a driver's hackney carriage or private hire licence. Such a matter is dealt with by way of a disciplinary hearing (see Appendix I).

#### **(b) Major motoring offences**

A conviction for dangerous driving is likely to lead to the refusal of an application unless at least three years has elapsed since the conviction.

An isolated conviction for careless driving will ordinarily merit a warning as to future driving and advice on the standard expected of hackney carriage and private hire drivers. More than one conviction for this type of offence within the last three years should merit refusal.

#### **(c) Drunkenness**

##### **(i) With a motor vehicle**

A serious view will be taken of a conviction of driving or being in charge of a vehicle while under the influence of drink. More than one conviction for these offences will raise grave doubts as to the applicant's fitness to hold a licence.

At least 3 years should elapse (after the restoration of the driving licence) before an applicant is considered for a licence.

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.

**(ii) Not in motor vehicle**

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 (see (i) above). In some cases, a warning may be sufficient.

**(d) Drugs**

An applicant with a conviction for a drug related offence is required to show a period of at least 3 years free of convictions before an application is entertained.

**(e) Indecency offences**

As hackney carriage and PHV drivers often carry unaccompanied passengers, applicants with convictions such as indecent exposure, or importuning will be refused until they can show a substantial period, at least 3 years, free of such offences. Where there is more than one conviction of this kind or there are convictions for more serious sexual offences such as indecent assault, applications are likely to be refused unless there is a period of at least 5 years free of conviction. If a licence is granted, a strict warning as to future conduct may be issued by the Licensing Sub-Committee.

**(f) Violence**

As hackney carriage and private hire vehicle drivers maintain close contact with the public, a firm line will be taken with applicants who have convictions for grievous bodily harm, wounding, assault, assault occasioning actual bodily harm, violent disorder or affray. At least 3 years free of such convictions must be shown before an application is likely to be granted and even then a strict warning may be administered by the Licensing Sub-Committee. If there is more than one conviction of this kind applications are likely to be refused unless there is a period of 5 years free of convictions.

Where a person has been convicted of criminal damage or less serious offences of public disorder, such convictions if standing alone may not be a bar to the grant of an application, but the sub-committee may issue a warning as to future conduct.

**(g) Dishonesty**

Hackney carriage and PHV drivers are expected to be persons of trust. The widespread practice of delivering unaccompanied property is indicative of the trust that business people place in drivers. Moreover, it is comparatively easy for dishonest drivers to defraud the public, for example, 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 will be taken of convictions involving dishonesty. In general, a period of 3 years free of convictions is necessary before an application is likely to be granted.

**PRINCIPLES OF THE REHABILITATION OF OFFENDERS ACT 1974 (as amended by the Legal Aid, Sentencing and Punishment of Offenders Act 2012)**

- (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) 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.
- (4) 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.
- (5) The determination as to whether certain convictions are spent, therefore, may be a relevant exercise.
- (6) The rehabilitation periods to which reference is most commonly made are set out below. For a detailed commentary on the periods of rehabilitation applicable to all sentencing options, reference will need to be made to a specialist textbook on the Act.

***Sentence***

***End of rehabilitation period for adult offenders***

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| A custodial sentence of more than 30 months and up to, or consisting of, 48 months. | The end of the period of 7 years beginning with the day on which the sentence (including any licence period) is completed. |
| A custodial sentence of more than 6 months and up to, or consisting of, 30 months.  | The end of the period of 4 years beginning with the day on which the sentence (including any licence period) is completed. |
| A custodial sentence of 6 months or less.   | The end of the period of 2 years beginning with the day on which the sentence (including any licence period) is completed. |
| Removal from Her Majesty's service.   | The end of the period of 1 year beginning with the date of the conviction in respect of which the sentence is imposed.     |
| A sentence of service detention.  | The end of the period of 1 year beginning with the day on which the sentence is completed.                                 |

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| A fine.                                    | The end of the period of 1 year beginning with the date of the conviction in respect of which the sentence is imposed.                          |
| A compensation order.                      | The date on which the payment is made in full.  |
| A community or youth rehabilitation order. | The end of the period of 1 year beginning with the day provided for by or under the order as the last day on which the order is to have effect. |
| A relevant order.                          | The day provided for by or under the order as the last day on which the order is to have effect.  |