



Hackney Carriage & Private Hire Licensing

Policy Relating to the Relevance of
Convictions.

MAY 2006

1. Policy

1. This policy relates to any application for
 - a. a hackney carriage & private hire drivers licence;
 - b. a hackney carriage proprietors licence;
 - c. a private hire operators licence or
 - d. a private hire vehicle licence
2. The applicant shall declare any convictions or cautions that he/she may have unless they are regarded as “spent” under the Rehabilitation of Offenders Act 1974.
3. The information will be treated in confidence and will only be taken into account in relation to an application listed in paragraph (1) above.
4. Each case will be determined on its own merits.
5. The disclosure of a criminal record or other information will not automatically debar an applicant from gaining a licence unless the authority considers that the conviction renders him/her unsuitable.
6. In making a decision this authority will consider the nature of the offence, how long ago and what age the applicant was when it was committed and any other factors which may be relevant.
7. Any applicant refused a driver’s licence on the ground that he/she is not a fit and proper person to hold such a licence has a right of appeal to a Magistrates’ Court.
8. The applicant/licensee may be afforded a personal hearing before the Manager.
9. The applicant/licensee may be represented by a friend or legal adviser and will be told, in writing, of the adopted procedure to be used at any such hearing.
10. The Manager will consider all cases having regard to the safety and protection of the travelling public and it is for the applicant/licensee to produce evidence to the Manager to show amongst other things:
 - a. That the applicant is a fit and proper person to hold a licence
 - b. That the applicant/licensee can comply with the statutory requirements attached to the grant or renewal of a hackney carriage or private hire licence and compliance with any conditions imposed by the Isle of Wight council for the time being in force.

11. A person with a current conviction for a serious crime need not be permanently barred from obtaining a licence but should be expected to remain free of conviction for a period of 3 to 5 years according to the individual circumstances before an application is entertained. Some discretion may be appropriate if the offence is isolated and there are mitigating circumstances. However, the Licensing Authority's overriding consideration will be the protection of the public.
12. Without prejudice to any action the Council may take, the following examples provide a general guide on the action to be taken where convictions are recorded against the applicant/licence holder:

- a. **Minor Traffic Offences**

Convictions for minor traffic offences, eg. Obstruction, waiting in a restricted street, speeding, etc. should not prevent a person from proceeding with an application. If sufficient points have been accrued to require a period of disqualification of the person's driving licence then a Hackney Carriage or Private Hire Licence may be granted after the restoration of the driving licence with a warning as to that person's future conduct. If however, the convictions arise as a result of that person carrying out duties as a licensed Hackney Carriage or Private Hire Driver, then that person will be asked to appear before the Licensing Panel if 9 or more penalty points have been endorsed upon the driving licence.

- b. **Major Traffic Offences**

An isolated conviction for reckless driving or driving without due care and attention should normally merit a written warning as to the future driving conduct. Written advice will be given to that person of the standards expected by The Isle of Wight Council of Hackney Carriage and Private Hire Vehicle Drivers. More than one conviction for these types of offences will merit refusal or revocation of a licence and no further application should be considered until a period of 3 years free from last conviction has elapsed.

- c. **Drunkness**

- i. **With a Motor Vehicle**

A serious view will be taken of convictions relating to driving a motor vehicle or being in charge of a vehicle whilst under the influence of drink. This may be for driving with excess alcohol or failing to provide a specimen of blood, breath or urine as required.

An applicant will not normally be considered for the grant

of a licence if that person has been convicted of an offence of driving with excess alcohol or failing to provide a specimen of blood, breath or urine as required unless a period of 3 years has elapsed since the restoration of that person's driving licence.

If there is reasonable belief that the applicant suffers from an alcohol disorder, a special medical examination will be arranged (at the applicant's expense) before an application is determined. If the applicant is found to have an alcohol disorder a period of 5 years shall elapse after treatment is complete before a further licence application is considered.

The Council may require that applicant to provide appropriate medical or other evidence to enable consideration of whether or not it would be appropriate to consider a licence application.

ii. Not in a Motor Vehicle

An isolated conviction for drunkenness need not debar an applicant from gaining a licence.

A number of convictions for drunkenness may necessitate a medical examination and medical evidence to be produced by that person as to their suitability to hold a licence.

d. Drugs

An applicant with a conviction for a drug related offence shall show a period of at least 3 years free of convictions before an application is entertained or 5 years after detoxification treatment if the applicant was an addict.

Appropriate medical evidence shall be required by the Licensing Panel before considering an application.

A licensed driver convicted of driving a motor vehicle whilst committing drug related offences will be treated very seriously and may result in revocation of the licence.

e. Indecency Offences

Applicants with convictions for indecent exposure, indecent assault, importuning or any other serious sexual offence shall be refused until they can show a substantial period (at least 3 - 5 years) free of such offences.

More than one conviction of this kind may preclude consideration for at least 5 years.

In either case, if a licence is granted a strict warning as to that person's future conduct will be issued.

f. Violence

Applicants who have convictions for grievous bodily harm, wounding or assault shall be refused a licence until they can show a period of at least 3 years free of such conviction.

g. Dishonesty

Applicants, who have convictions for offences of dishonesty, shall be refused a licence until they can show a period of at least 3 to 5 years free of such conviction.

h. Miscellaneous

In exceptional circumstances there may be some cases where because of the nature of convictions, or in the public interest, the Senior Licensing Officer will not use his delegated authority to grant or renew a licence and will refer the matter to the Licensing Committee.

13. The Council may take into account alleged offences that have not resulted in prosecution or conviction. It is recognised that the standard of proof in determining licensing matters is the balance of probabilities and not the criminal standard beyond reasonable doubt. The Council will however, only do so where in all the circumstances it is reasonable to do so and there is supportive evidence to demonstrate the person is not fit and proper to hold a licence. The Council will in addition, have regard to its responsibilities under the Human Rights Act 1998 in particular Article 8 and Article 1 of the first Protocol. The Council on exercising the above shall not decide the guilt of the applicant but purely whether they are fit and proper to hold a licence.
14. The use of the information will comply with the requirements of the Data Protection Act 1998.
15. The Isle of Wight Council as the data controller will process and hold the information in accordance with the Data Protection Act 1998, Freedom of Information Act 2000 and the Environmental Information Regulations 2004. For more information please refer to the Isle of Wight Councils access to Information Policy.

2. Notes on the Rehabilitation of Offenders Act 1974

1. This Act provides that after a certain lapse of time, convictions for criminal offences are to be regarded as “spent” for certain purposes. However, all criminal convictions are relevant for hackney carriage and private hire licensing purposes and must be declared. The Council will consider the offence committed and the time elapsed since conviction from that offence.

The following is a guide to the periods of time that have to lapse before the offence is spent for other purposes.

Sentences of imprisonment exceeding 30 months duration can never be treated as spent.

Sentence	Rehabilitation Period
A sentence of Imprisonment, detention in a young offender institution or youth custody or corrective training for a term exceeding 6 months but not exceeding 30 months	10 years
A sentence of Imprisonment, detention in a young offender institution or youth custody for a term not exceeding 6 months	7 years
A fine, probation order, or community service order	5 years
A sentence of cashiering, discharge with ignominy or dismissal with disgrace from Her Majesty's Service	7 years
Conditional discharge or binding over	1 year or when period expires (whichever is the longer)
Disqualification/prohibition	To the end of the disqualification/prohibition
Absolute discharge	6 months
Mental Health Act order	5 years or 2 years after hospital ends (whichever is longer)

The periods of time which must elapse in other cases before the conviction becomes spent vary considerably according to the nature of the offence and other circumstances. The rehabilitation period may be extended by the commission of a further offence during the rehabilitation period.

As a result of this, the summarised provisions above are intended only as a general guide.