

## **APPENDIX F**

### **RELEVANCE OF CONVICTIONS TO APPLICATIONS**

The following guidelines will be used to determine the relevance of criminal convictions in relation to applications for hackney carriage and private hire driver's licences. In so stating, this Authority has adopted the guidelines set out in the DOT Circular 2/92 and HO Circular 13/92, subject to certain limited modifications.

#### **General Policy**

1. Each application will be determined on its own merits.
2. A person with a current conviction for serious crime need not be permanently barred from obtaining a licence but will be expected to remain free of conviction for 3 to 5 years, according to the circumstances of the offence, 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. Listed below are some general principles relating to the determination of applications for drivers and operators of hackney carriages and private hire vehicles which will generally be followed where convictions are admitted.

#### **3.1 Minor Traffic Offences**

Convictions for minor traffic offences e.g. obstruction, waiting in a restricted street, speeding etc will not prevent a person from proceeding with an application. Multiple occurrences of similar current offences, however, merit the issue of a warning as to future driving standards. 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. A warning will, however, be given about future driving standards.

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 driver's hackney carriage or private hire licence may still be revoked or suspended. Such a matter will always be dealt with by way of a disciplinary hearing (see Appendix M).

#### **3.2 Major Motoring Offences**

An isolated conviction for reckless driving or driving without due care and attention etc will normally merit a warning as to future driving and advice on the standard expected of hackney carriage and PHV drivers. More than one conviction for this type of offence within the last 2 years will normally merit refusal with no further application then being considered until a period of 1 to 3 years free from convictions has elapsed. A single conviction for causing death by careless driving or by dangerous driving will be reported to the Public

Protection Committee for determination on the merits of the case.

### **3.3 Applications where Minor Traffic Offences are not Declared**

Where an applicant has failed to disclose one or more of the offences mentioned above on their application form but such offences are subsequently uncovered during a DVLA check or by any other means, the licensing officer may, if he thinks fit, still issue the licence subject to a warning regarding future conduct. If, however, he considers that there was a premeditated intent to deceive, he will normally refer the matter to the Public Protection Committee to be dealt with by way of a disciplinary hearing (see Appendix M).

### **3.4 Drunkenness**

#### **3.4.1 With a motor vehicle**

A serious view will be taken of convictions of driving or being in charge of a vehicle whilst under the influence of drink. Where a disqualification has been imposed as a result of a drink-driving offence, an application will generally be refused unless a period of 5 years free of conviction has passed since the return of the DVLA licence. More than one conviction for such offences will raise grave doubts as to the applicant's fitness to hold a licence and will normally require at least a 10 year clear period from conviction before an application is likely to be considered favourably. If there is any suggestion that the applicant is an alcoholic, a special medical examination will be arranged before the application is entertained. If the applicant is found to be an alcoholic, a period of 5 years must elapse after treatment is complete before a further licence application is considered.

#### **3.4.2 Not in a 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.

### **3.5 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 or 5 years after detoxification treatment if he/she was an addict.

### **3.6 Sexual or Indecency Offences**

The drivers of hackney carriages and private hire vehicles often carry passengers who are alone or may be vulnerable. Applicants who have convictions for rape, indecent assault, any sexual offence involving children or other vulnerable victims or any conviction for an offence under the Sexual Offences Act 2003, will, therefore normally be refused a licence. No application will be considered from a person currently on the Sex Offender's Register. Where an applicant has a conviction for a lesser sexual offence, such as indecent exposure, they will normally be refused a licence until they can show a substantial period, usually at least 5 years, free of any such convictions from the date of conviction or the date of release from jail where a custodial sentence has been imposed. More than one conviction of this kind will raise grave doubts as to the applicant's fitness to hold a licence and will normally require at least a 10 year clear period from conviction before an application is likely to be considered favourably. In all cases, consideration will be given to the circumstances of the offence and any evidence to show that an applicant is a fit and proper person to hold a licence. When considering applications, the Council may take into account any information of a sexual nature which does not amount to a criminal offence that is brought to its attention where that information may indicate that an applicant may not be a fit and proper person to hold a licence.

### **3.7 Violence**

As hackney carriage and PHV drivers maintain close contact with the public, a firm line will be taken with applicants who have convictions for offences involving violence. Applicants with a conviction or caution for grievous bodily harm, wounding, serious assault, possession of a dangerous weapon or other serious offence involving violence or where the offence involved loss of life, will normally be refused a licence. At least 5 years free of such conviction or caution, from either the date of conviction or caution, or from completion of any custodial sentence imposed, whichever is the latter must be shown before an application is entertained and even then careful consideration will be given to the circumstances of the offence and a strict warning will be administered. Convictions for minor violence related offences, e.g. threatening, abusive or insulting behaviour will not necessarily prevent a person from proceeding with an application. In deciding whether to grant such an application the authority will consider the nature of the offence, how long ago it was and what age the applicant was when it was committed and any other factors, which may be relevant.

### **3.8 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 any convictions involving dishonesty. In general, a period of 5 years free of convictions will be required before an application is entertained.

### **3.9 Persistent Criminality**

Due to the potential risks to the public, applications from persons with a persistent record of criminality, where the record suggests a persistent lack of regard for the well-being of others or for their property rights, would normally be refused.

### **3.10 Other Offences and special circumstances**

If the applicant has declared any other offences not listed above or the circumstances of the case justify it, the licensing officer will, if he considers it appropriate, refer the application to the Public Protection Committee for determination.