



POLICY RELATING TO PREVIOUS CONVICTIONS IN RELATION TO FITNESS TO HOLD LICENCES

The local licensing authority must be satisfied that all those who are licensed to drive hackney carriages and private hire vehicles are fit and proper persons. This general policy relates to the Council's assessment of the suitability of an applicant for licensing as a driver of taxis and/or private hire vehicles in terms of their criminal and driving records. Specifically, it is to be applied where an applicant for a drivers licence has a relevant conviction or caution. Additionally, it will be referred to where a relevant conviction or caution has occurred during the period of a drivers licence and used to inform any decision as to the licence-holder's continuing fitness.

These guidelines shall apply to all new applicants and any application by a current holder for a further licence (popularly known as a 'renewal'), for hackney carriage proprietors, private hire drivers and operators. Any reference to an applicant shall also mean any person currently holding a hackney carriage proprietors' or driver's licence, a private hire operator's or driver's licence.

GENERAL POLICY

1. Each case will be decided on its own merits. Although an applicant may have convictions that would fall under the guidelines in this policy, the Council will always consider the full facts of the case and any mitigating or other circumstances before reaching a decision. Hackney carriage and private hire drivers are listed occupations under the Rehabilitation of Offenders Act 1974. This means that an applicant must disclose ALL convictions when applying for the grant of a licence. The Council may take into account anything they consider relevant to the determination of the application.
2. A person with a conviction for crime need not be permanently barred from obtaining a licence but should be expected to have remained free of conviction for a period before an application is considered. However, the overriding consideration when determining whether or not to grant a licence will be the protection of the public.
3. Where any conviction has resulted in a term of imprisonment, the time periods given will run from the date that the applicant was released from prison and not from the date of conviction.
4. Notwithstanding the periods set out below that an applicant is expected to remain free from conviction, an individual's record could be subject to greater scrutiny if it shows a pattern of re-offending both in terms of type of offence or frequency, that could cast doubt on whether the applicant is fit and proper to hold a licence.

5. Normally Thurrock Council will expect that an applicant will not -
 - (a) have been convicted of three or more motoring offences during the previous three years;
 - (b) have been convicted of a serious motoring offence during the previous five years;
 - (c) have been cautioned by the police for a criminal offence during the previous 24 months;
 - (d) have been convicted of a criminal offence during the previous three years;
 - (e) have been convicted of a serious criminal offence or a sexual offence within the previous seven years;
 - (f) have been refused an HGV or PSV Licence or had either revoked by the Traffic Commissioners within the previous three years.
6. A very serious view will be taken of any conviction, no matter how minor or serious, that occurs whilst the person is the holder of a current licence and especially if the offence occurred whilst in the course of their employment as a licensed proprietor, driver or operator.
7. Where appropriate and it can be shown to be in the interests of public safety, any driver's licence may be immediately suspended. The matter will then be referred to the appropriate Committee for consideration. Immediate suspension should be expected in any case involving assault or involving indecency of any description.
8. The above examples are not exhaustive. The Council may, at its discretion and in exceptional circumstances, disregard these guidelines and impose any greater or lesser constraint that it sees to be fit and reasonable having regard to the individual circumstances of a particular case.
9. The following examples may afford a general guide on the action to be taken where convictions or police cautions are revealed:–

Offences involving indecency

Any conviction for an offence of a sexual nature or involving indecency will be viewed most seriously. In any application where such offences are declared or found to be recorded against the applicant, the matter will be referred to the public Protection Sub-Committee for a decision irrespective of how long ago the conviction was.

Drivers of licensed vehicles frequently carry lone children and vulnerable persons. Applicants with convictions for any offence involving indecency or any offence of a sexual nature must show a period of at least seven years free of conviction before their application can be considered.

If an applicant has been required to be placed on the Sex Offenders Register then the period of seven years shall run from the date of removal from that

register. Under no circumstances will an application be accepted from any person still on the register.

Where there is more than one conviction for this type of offence, or the conviction has arisen as the result of the use or operation of a licensed vehicle in the course of public or private hire, no application for the grant of a licence will normally be entertained.

Safeguarding of Vulnerable Groups

Where an applicant is included on the Children's or Adult's Barred Lists of the Independent Safeguarding Authority, no application for grant of a licence will be entertained whilst they remain on either list.

Where an applicant has been on either barred list and subsequently removed from it, no application will be entertained until seven years have elapsed after removal from the list.

Where a current driver licence holder is found to be included on either list, they must expect to have their licence immediately suspended on the grounds of public safety until such time as the Public Protection Sub-Committee has had the opportunity to consider their fitness to continue holding such a licence.

Drugs

Any conviction involving drugs will be viewed seriously. An applicant with such a conviction will be expected to show at least seven years free of conviction before being considered for the grant of a licence. Where a course of rehabilitation has been ordered or undertaken the period of seven years shall commence from the end of that treatment. In addition a letter must be produced from a qualified specialist certifying that the person is no longer misusing drugs and is fit to drive members of the public for hire and reward.

Applications from persons who have been registered drug addicts or have had an addiction to drugs, will not normally be considered, unless exceptional reasons can be shown.

Violence and Assaults

Drivers are often placed in confrontational situations with their passengers. It is important that they have the ability to deal with such situations in a calm and polite manner.

Where an applicant has a conviction for a serious assault they should have remained free from conviction for a period of seven years.

Where the assault was of a minor nature, a period of three years free from conviction will normally apply.

An applicant with more than one conviction involving violence, or where the offence occurred through the use or operation of a licensed vehicle, will only be considered in exceptional circumstances.

Dishonesty

Normally a period of three years free of conviction should have elapsed following any conviction for an offence of dishonesty.

A licensed driver is placed in a position of trust and often carries unaccompanied goods. They are also aware of when particular properties may be empty for some time after taking the occupants to the airport or railway station.

They also have opportunity to overcharge on a lawful fare.

For these reasons the honesty of an individual is of paramount importance when determining the grant of a licence.

Drunkenness

An isolated conviction for minor drunkenness should not necessarily preclude the grant of a licence. However, the Council must be satisfied that it was an isolated occurrence. If an applicant has more than one conviction for this type of offence, particularly if close together and within the preceding three years, doubts will arise as to their suitability to hold a licence.

If there is any history of alcoholism, or a suggestion that the applicant is an alcoholic, then a period of five years should have elapsed after any relevant treatment. The applicant must also undertake a medical examination by a qualified specialist and obtain a letter that certifies them free from the disorder and fit to drive members of the public for hire and reward.

Where a licensed driver is convicted of any offence involving drunkenness, they must expect to be immediately suspended in the interests of public safety.

Serious Traffic Offences

Where an applicant has been convicted of a serious offence such as driving with excess alcohol, dangerous driving, no insurance, etc., no application will be entertained until at least five years have elapsed since conviction.

If a period of disqualification was ordered at conviction then the period of five years will run from the completion of that period of disqualification.

Where the applicant was ordered to re-sit a driving test after the completion of their disqualification, the period of five years will run from the date of passing that driving test.

If an applicant has been convicted of more than one serious motoring offence in the preceding five years the presumption will be against the grant of a licence unless exceptional reasons can be shown in favour of a grant.

Applications will not normally be entertained from applicants who have more than one previous conviction for driving with excess alcohol, especially where they have been ordered by the court to undertake any form of re-habilitation.

Minor Traffic Offences

Convictions for minor traffic offences, or endorsements for fixed penalty notices, will not normally be a bar to the grant of a licence provided there have not been more than two within the three years immediately preceding the date of application.

Where a conviction and/or endorsement has attracted a period of disqualification, no application will be entertained until at least six months after the end of the disqualification and there are no more than two endorsements in the preceding three years.

If an applicant was ordered to re-sit a driving test after any disqualification then the period of six months will run from the date of passing that driving test.

Cautions

To receive an official caution an offender must have been of previous good character and have admitted the crime of which he is accused. It is considered to be a conviction. Therefore the Council will expect that an applicant must not have been subject to a caution during the preceding 24 months.

Any applicant who has a caution for any offence of a sexual nature or involving indecency will have their application referred to the Public Protection Sub-Committee for a decision as to whether a grant should be made.

Other Offences

Where an applicant has been subject to a bind over or other restraining order imposed by a court, no application will normally be considered whilst it is in force. No application will normally be considered until a period of six months has elapsed from the completion of that bind over or restraining order.

An applicant or licence holder aggrieved by the decision of the Council has the right of appeal to a Magistrates Court within 21 days.

Confidential enquiries concerning this policy can be made to:

Licensing Department,
Thurrock Council,
Civic Offices,
New Road,
Grays,
Essex
RM17 6SL

E-Mail: licensing@thurrock.gov.uk