

GUIDELINES RELATING TO THE RELEVANCE OF CONVICTIONS/CAUTIONS IN DETERMINING THE GRANT, REVOCATIONS SUSPENSION OR RENEWAL OF A HACKNEY CARRIAGE DRIVERS LICENCE OR A PRIVATE HIRE DRIVERS OR OPERATORS LICENCE

Eastbourne Borough Council licences Hackney Carriage/Private Hire Drivers and Operators under the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976.

The Council may refuse to grant, renew or revoke a licence on any of the following grounds:

- (i) there has been a conviction/caution for an offence involving dishonesty, indecency, violence, or Traffic Offence
- (ii) there has been a conviction/caution for an offence under, or a failure to comply with, the relevant licensing legislation
- (iii) there has been a caution/warning/reprimand for an offence which calls into question their fitness and propriety or
- (iv) any other reasonable grounds.

It should be considered whether the applicant is a "fit and proper" person to hold a driver' or Operators licence. A driver need not necessarily have been convicted of a criminal offence for his/her behaviour to be taken into account in deciding whether the test of "fit and proper" has been satisfied. Furthermore, the fact that an applicant has a criminal conviction does not necessarily mean that the applicant is not a "fit and proper" person to hold a licence issued by the Council. The Council is not considering whether the applicant is guilty of an offence but whether he/she is a "fit and proper person. Each application will be decided on its own merits.

If a period of imprisonment/community sentence or court order is imposed the applicant must show 3 years conviction free from the end of the imprisonment/sentence **not** the reduced sentence. E.g.: If sentenced to 3 years from 1/1/2006 the application will not be considered until 1/1/2009.

Furthermore, new applicants who have not resided in the UK for any period of time must also satisfy the Council/Licensing Committee that they are a "fit and proper" person. This may involve contacting foreign embassies/authorities to establish whether there are any relevant matters, to include criminal convictions are held in the individuals' place of birth, or where they have been residing prior to becoming a UK citizen. Criminal Records Checks only cover the period an individual has resided in the UK.

The categories listed below are not exhaustive, and other matters may be considered as appropriate.

1. MINOR TRAFFIC OFFENCES

Guidelines

Where a period of disqualification has been imposed due to the accrual of D.V.L.A penalty points, or for a single infringement of the law, an application should not be considered until the driving licence has been restored for a minimum period of 12 months.

Should the D.V.L.A. Licence demonstrate a further conviction since the disqualification period, then a further 12 month period should elapse from the date of the last conviction on the D.V.L.A. licence before an application is approved.

OFFENCES COVERED UNDER THIS SECTION INCLUDE

MS10	Leaving a vehicle in dangerous position.
MS20	Unlawful pillion riding.
MS30	Play street offences
MS60	Offences not covered by other codes as appropriate.
SP10	Exceeding goods vehicle speed limit.
SP20	Exceeding speed limit for type of vehicle Excluding Goods or Passenger vehicles
SP30	Exceeding statutory speed limit on public roads.
SP40	Exceeding passenger vehicle speed limit.
SP50	Exceeding speed limit on a motorway.
SP60	Undefined speed limit offence.
PL10	Driving without "L" plates.
PL20	Not accompanied by a qualified person.
PL30	Carrying a person not qualified.
PL40	Drawing an unauthorised trailer.
PL50	Undefined failure to comply with conditions of a provisional licence.

2. MAJOR TRAFFIC OFFENCES

Guidelines

Where a period of disqualification has been imposed an application should not be considered until the D.V.L.A. driving licence has been restored for a period of 12 months and no further motoring conviction has been endorsed on it in that period. Should the D.V.L.A. licence demonstrate a further conviction since the disqualification period then a 12 month period should elapse from the date of the last conviction on the D.V.L.A. licence before an application is considered.

Offences Covered Under This Section Include

CD10	Driving without due care and attention.
CD20	Driving without reasonable consideration to other road users.
CD30	Driving without due care and attention or without reasonable consideration for other road users.
IN10	Using a vehicle uninsured against third party risk.
BA10	Driving while disqualified by order of court.
BA20	Driving while disqualified under age.

An application received which details one of the following offences on the D.V.L.A. driving licence (DD30; DD60; DD70, MS50)* will normally be refused, or a current licence suspended or revoked. The endorsement for these offences remains on the DVLA licence for a period of 11 years. An application will not normally be approved until the endorsement period has expired, and it is shown that no further motoring convictions have been endorsed on it during that period or subsequently.

*This list is not exhaustive.

DD30	Reckless driving.
DD60	Manslaughter or culpable homicide while driving a vehicle.
DD70	Causing death by reckless driving.
MS50	Motor racing on the highway.

Other offences covered in this section include:

UT10	Taking or driving away a vehicle without consent or an attempt there at.
UT20	Stealing or attempting to steal a vehicle.
UT30	Going equipped for stealing or taking a vehicle.
UT40	Taking or attempting to take a vehicle without consent, driving or attempting to drive a vehicle knowing it to have been taken without consent. Allowing oneself to be carried in or on a vehicle knowing it to have been taken without consent.
UT50	Aggravated taking of a vehicle.

These will be treated under the dishonesty and violence category at paragraphs 6 and 7.

3. DRUNKENNESS

WITH MOTOR VEHICLE

Guidelines

An application with one conviction on the D.V.L.A. driving licence under this category should not be considered until a minimum period of 36 months has elapsed since the restoration of the D.V.L.A licence. More than one conviction of this type will result in the application being refused until such time as only one of the convictions remains on the D.V.L.A. licence and a minimum period of 36 months has elapsed since the restoration of the licence.

3.3 Offences under this section include:-

DR10	Driving or attempting to drive with alcohol level above limit.
DR20	Driving or attempting to drive while unfit through drink or drugs.
DR30	Driving or attempting to drive then refusing to supply a specimen for analysis.
DR40	In charge of a vehicle while alcohol level above limit.
DR50	In charge of a vehicle while unfit through drink or drugs.
DR60	Failure to provide a specimen for analysis in circumstances other than driving or attempting to drive.
DR70	Failing to provide specimen for breath test.

3.4 NOT IN MOTOR VEHICLE

An isolated conviction/caution for drunkenness need not debar an applicant from gaining a licence. However a number of convictions/cautions for drunkenness or anti social behaviour could indicate a medical or behavioural problem, necessitating critical examination (see 3.1 above) In some cases, a warning may be sufficient.

4. DRUGS

Guidelines

An application should not be considered until a minimum of 3 years free of conviction/caution is shown, or 5 years after detoxification treatment if he/she was defined as an addict.

Offences within this category will include:-

1.	Possessing Controlled Drug
2.	Possessing Controlled Drug with intent to supply
3.	Producing Controlled Drug
4.	Import Drugs

5. INDECENCY OFFENCES

Guidelines

An application should not be considered until a period of 3 years free of conviction/caution is shown, or if the applicant has been placed on the Sex Offenders Register until that period of time has elapsed. Any application with a conviction/caution within this category will be put before the Licensing Committee for determination.

Offences within this category will include:-

1.	Indecent Exposure
2.	Indecent Exposure to the annoyance of Residents
3.	Indecent Exposure with intent to insult a female
4.	Unlawful sexual intercourse
5.	Importuning
6.	Gross indecency with female
7.	Gross indecency with male
8.	Indecent Assault on female
9.	Indecent Assault on a Child under 16 years
10.	Living off immoral earnings
11.	Prostitution
12.	Possessing or distributing obscene material
13.	Buggery
14.	Rape
15.	Indecent or nuisance telephone calls
16.	Harrassment

6. VIOLENCE

Guidelines

An application should not be considered until a minimum period of 3 years free of conviction/caution is shown, with exception of 8, 9 and 10 when 2 years for a single offence will be the appropriate period.

Offences in this category will include:

1.	Common Assault
2.	Assault – Section 47
3.	Grievous bodily harm – Section 20
4.	Grievous bodily harm – Section 18
5.	Assault Police
6.	Affray
7.	Riot
8.	Using threatening abusive words or behaviour
9.	Breach of peace
10.	Drunk and disorderly
11.	Common assault – aggravated
12.	Obstruction
13.	Robbery
14.	Possess offensive weapons
15.	Possess firearm
16.	Possess Firearm with intent
17.	Criminal damage
18.	Violent Disorder
19.	Resist Arrest
20.	Arson

7. DISHONESTY

It is comparatively easy for dishonest licensed driver to defraud the public by demanding more than the legal fare. Visitors to the Borough can be confused by the fare structure, and/or by the change in currency and become a target for an unscrupulous driver, who is effectively placed in a position of trust, and "represents" the Council.

For these reasons a serious view should be taken of any conviction/caution involving dishonesty. In general, a period of 3 to 5 years free of conviction/caution/warning should be required before entertaining an application.

Guidelines

An application should not be considered until a minimum period of 3 years free of conviction/caution/warning is shown.

Offences in this category will include:-

1.	Theft
2.	Theft – Shoplifting
3.	Theft – Employee
4.	Theft – From Vehicle
5.	Burglary and Theft – Dwelling
6.	Burglary and Theft – Non Dwelling
7.	Burglary – Aggravated
8.	Fraudulent Use
9.	Handling
10.	Receiving
11.	Forgery
12.	Conspiracy to Defraud
13.	Obtain Money by Deception
14.	Obtain Money by Forged Instrument
15.	Deception
16.	False Accounting
17.	False Statement
18.	Going Equipped
19.	Taking/Driving or Attempt to Steal a Vehicle
20.	Allow to be Carried in Stolen Vehicle
21.	Perverting the Course of Justice
22.	Touting for hire car services
23.	Plying for hire

8. RIGHT OF APPEAL

Nothing in this criteria will remove an applicants right to appeal to a Magistrates Court against the Council's decision to refuse to grant, or renew a licence, or decision to suspend, or revoke a licence. An appeal may be lodged against any conditions which may have been placed on any such licence by the Council. Such appeal to be made in writing within 21 days of the notification of refusal or decision.