

# CENTRAL BEDFORDSHIRE COUNCIL

## DRAFT

### STATEMENT OF POLICY ABOUT RELEVANT CONVICTIONS

#### POLICY AIM

**To promote and maintain the highest professional standard of hackney carriages and private hire drivers by the continuous monitoring of services and to ensure that each driver is a fit and proper person to hold a hackney carriage or a private hire driver licence.**

1. Licences for drivers of hackney carriages and private hire vehicles may only be granted where the Council is satisfied that the applicant is a fit and proper person to hold such a licence.
2. The policy is intended to give guidance to applicants where he or she has previous convictions and or cautions.
3. The Council will endeavour to ensure:-
  - (a) That a person is a fit and proper person
  - (b) That a person does not pose a threat to the public
  - (c) That the public are safeguarded from dishonest persons
4. When submitting an application for a licence to drive a hackney carriage/private hire vehicle, applicants are required to declare all previous convictions they may have. Applicants are also required to declare all formal cautions and all endorsable fixed penalties together with details of all criminal matters of which they are currently subject of criminal investigation or prosecution.
5. Existing holders of driver licences are required to notify the Council, in writing, within seven days of receiving a driving licence endorsement, fixed penalty notice or criminal conviction (including cautions)
6. The information given will be treated in confidence and will only be taken into account in relation to the relevant application to assist the Council in determining whether the applicant is a fit and proper person to hold a driver's licence for the purposes of Sections 51 and 59 of the Local Government (Miscellaneous Provisions) Act 1976.
7. Applicants should be aware that the Council is empowered by Law to check with the Criminal Records Bureau (CRB) for the existence and content of any criminal record held in their name. This Council abides by

the CRB's Policy on the secure storage, handling, use, retention and disposal of disclosure information, which is available on request.

8. The disclosure of a criminal record or other information relating to criminal matters will not necessarily debar an applicant from obtaining a driver's licence. Whether or not an applicant will be granted a licence will depend upon whether or not the Council can be satisfied that the applicant is a fit and proper person to hold such a licence.
9. In accordance with current case law, the Council will not seek to go behind the convictions by reinvestigating the circumstances of the case or questioning the decision of the relevant judicial authority. It will be for applicants to persuade the Council that the conviction is no longer serious, relevant, or is so old that it should not affect their ability to hold a licence.
10. The Council may fail to be satisfied that an applicant is a fit and proper person to hold a driver's licence for any good reason. If adequate evidence that a person is a fit and proper person is not received, or if there is good reason to question or doubt the evidence provided, it could amount to good reason to refuse a licence.
11. In considering evidence of an applicant's good character and fitness to hold a driver's licence, where previous convictions or other information relating to criminal matters are disclosed, the Council will consider the nature of the offence, when it was committed, the date of conviction, the applicant's age when the offence was committed and any other factors which might be relevant.
12. The Council is also entitled to use other records and information that may be available to it in determining applicants or an entitlement to continue holding a licence. This may include information held by the Council or other Councils, and information disclosed by the Police under the Home Office scheme for reporting notifiable offences.
13. Any applicant refused a driver's licence on the grounds that the Council is not satisfied that he or she is a fit and proper person to hold such a licence has a right of appeal to the Magistrates' Court within 21 days of the notice of refusal.
14. The Council has adopted the following guidelines relating to the relevance of convictions to which it refers in determining applications for drivers' licences.
15. The guidelines will also be taken into account by the Council when dealing with applications for the renewal of existing driver's licences and when considering whether to suspend or revoke an existing driver's licence.

## GENERAL POLICY GUIDELINES

1. Each case will be decided on its own merits.
2. The Council has a duty to ensure, so far as possible, that drivers are fit and proper persons to hold licences.
3. A person with a conviction for a serious crime need not be automatically barred from obtaining a licence but would normally be expected to (a) remain free of conviction for an appropriate period and (b) show adequate evidence that he or she is a fit and proper person to hold a licence. Simply remaining free of conviction will not generally be regarded as sufficient evidence that a person is a fit and proper person to hold a licence.
4. In some circumstances it may be appropriate to depart from the general policy, for example, where the offence is isolated and there are mitigating circumstances. Similarly, multiple offences or a series of offences over a period of time are likely to give greater cause for concern and may demonstrate a pattern of inappropriate behaviour which will be taken into account. **Applicants will be invited to make representation to the Head of Service, Public Protection, before a final decision on whether an applicant is considered a fit and proper person to hold a licence.**
5. The following examples afford a general guide on the actions which might be taken where convictions are disclosed. **The period of post convictions before applications will be considered are based on the Home Office Guidelines.**

### Offence of Dishonesty

- a. Drivers of hackney carriage and private hire vehicles are expected to be persons of trust. It is comparatively easy for a dishonest driver to defraud the public by demanding more than the legal fare. A serious view is taken of any conviction for dishonesty. In general, an application less than 3 – 5 years after conviction is unlikely to be considered favourably.
- b. After 3 years the circumstances of the offence, together with any evidence demonstrating that the person is now a fit and proper person to hold a licence, will be taken into account.

## Violence

- a. As hackney carriage and private hire vehicle drivers maintain close contact with the public, a period of 3 to 10 years free of conviction for offences involving violence (depending on the nature and seriousness of the offence) will generally be required before an application is likely to be considered.

## Drugs

- a. An application will normally be refused where the applicant has a conviction for an offence related to the supply of drugs and the conviction is less than 5 – 10 years prior to the date of application.
- b. After 5 years the circumstances of the offence, together with any evidence demonstrating that the person is now a fit and proper person to hold a licence, will be taken into account.
- c. An application from an applicant who has an isolated conviction for an offence related to the possession of drugs within the last 3 to 5 years will require careful consideration of the facts.

## Sexual and Indecency Offences

- a. As hackney carriage/private hire vehicle drivers often carry unaccompanied passengers, applicants with a conviction for rape, indecent assault, or other similar offences will normally be refused a licence.
- b. Applicants with a conviction relating to sexual offences will normally be refused a licence until they can show a substantial period (usually between 3 and 10 years) free from any such conviction.

## Motoring Convictions

Disqualification.

- a. Where an applicant has been disqualified from driving because of a major traffic offence, the applicant will generally be refused unless a period of 3 years free from conviction has elapsed from the restoration of the DVLA licence, and 5 years where the disqualification relates to drink driving or a major traffic offence.
- b. **Where several motor traffic offences have resulted in the applicant being disqualified from driving for a period of time, this will normally be taken as reflecting seriously on the applicant's driving standard. Generally a period of 3 years free from conviction must have elapsed from the restoration of the DVLA licence.**

- c. In 'totting-up' cases where disqualification is considered by the Court, even if the court does not disqualify a driver (e.g. because of exceptional circumstances), the Council is likely to refuse a hackney carriage./private hire driver's licence because different criteria apply and an applicant will normally be expected to show a period of 12 months free from conviction from the date the Court made its finding of exceptional circumstances justifying the non-disqualification.

#### Major Traffic Offences.

- a. An application will normally be refused where the applicant has a conviction for an offence within 2 years of the date of the application.
- b. More than one conviction for this type of offence within the last 5 years is likely to merit refusal.

#### Minor Traffic Offences.

- a. Isolated convictions for minor traffic offences should not prevent a person from obtaining a licence. However, the number, type and frequency of this type of offence will be taken into account and if there are several offences of this nature, the applicant will normally be expected to show a period free of conviction of at least 6 months.

### **Drunkenness**

#### With a motor vehicle

- a. A serious view will be taken of convictions of driving or being in charge of a vehicle while under the influence of drink. An application will normally be refused where the applicant has a conviction for an offence within 2 years of the date of the application. More than one conviction for this type of offence or one such offence within the last five years is likely to merit refusal. Where a disqualification has occurred as a result of a drink-drive offence, at least 5 years free from conviction should elapse after the restoration of the DVLA licence before an applicant is considered for a licence.
- b. **In addition, applications will normally be required to show a period of at least 5 years following successful completion of any rehabilitation course imposed as part of a community penalty.**

Not in a motor vehicle.

- a. An isolated conviction for drunkenness need not debar an applicant from gaining a licence. In some cases, a warning may be appropriate. However, a number of convictions for drunkenness could indicate a medical problem necessitating critical examination and refusal of a licence. In addition, applicants will normally be required to show a period of at least 5 years has elapsed after completion of detoxification treatment if he or she was an alcoholic.

### **Offences under the Town Police Clauses Acts and Part II of the Local Government (Miscellaneous Provisions) Act 1976 and Hackney Carriage Byelaws.**

One of the main purposes of the licensing regime set out in the Town Police Clauses Acts and Part II of the Local Government (Miscellaneous Provisions) Act 1976 ('the Acts') and Hackney Carriage Byelaws is to ensure the protection of the public. For this reason a serious view is taken of convictions for offences under the Acts (including illegally plying for hire) when deciding whether an applicant is to be treated as a fit and proper person to hold a licence.

In particular an applicant will normally be refused a licence if he or she has been convicted of an offence under the Acts at any time during the 2 years preceding the application or has more than one conviction within the last 5 years preceding the date of the application.

### **Spent convictions**

The Council will only consider spent convictions if it appears to be relevant for deciding whether the applicant is a fit and proper person to hold a licence.

### **Cautions and Endorsable Fixed Penalties**

For the purpose of these guidelines, formal cautions and endorsable fixed penalties shall be treated as though they were convictions.