

## Convictions Policy – Comparison Table

### Appendix 2

The comparison in the table below considers the difference between the Council’s current Statement of Policy and Guidelines for the Licensing of Hackney Carriage, Private Hire Drivers and Private Hire Operators, and the document attached to the Standards, which draws on the work of the Institute of Licensing (IoL), in partnership with the Local Government Association (LGA), the National Association of Licensing Enforcement Officers (NALEO) and Lawyers in Local Government’s guidance on determining the suitability of applicants and licensees in the Hackney and Private Hire Trade.

IoL Guidance - Offences	Institute of Licensing Guidance	Gedling Policy
<b>Crimes resulting in death</b>	Where an applicant or licensee has been convicted of a crime which resulted in the death of another person or was intended to cause the death or serious injury of another person they will <b>not be licensed</b>	<p><b>Convictions involving Violence (including attempts or conspiracy to commit such offences)</b></p> <p>In general a period of <b>3 to 10 years</b> free of conviction for offences involving violence (depending on the nature and seriousness of the offence) will be required before an application is likely to be considered favourably.</p> <p>An application will normally be refused where the applicant has a conviction for any of the following offences and the conviction is less than <b>10 years</b> prior to the date the application is considered: -</p> <ul style="list-style-type: none"> <li>• Murder</li> <li>• Manslaughter</li> </ul>
<b>Exploitation</b>	Where an applicant or licensee has been convicted of a crime involving, related to, or has any connection with abuse, exploitation, use or treatment of another individual irrespective of whether the victim or victims were adults or children, they will <b>not be licensed</b> . This includes slavery, child sexual exploitation, grooming, psychological, emotional or financial abuse, but this is not an exhaustive list.	<p><b>No such topic within the Policy.</b></p> <p><b>See convictions involving violence, convictions involving indecency and convictions involving dishonesty</b></p>
<b>Violence</b>	Where an applicant has a conviction for an offence of violence, or connected with any	<b>Convictions involving Violence (including attempts or conspiracy to commit such offences)</b>

offence of violence, a licence will not be granted until **at least 10 years** have elapsed since the completion of any sentence imposed.

In general a period of **3 to 10 years** free of conviction for offences involving violence (depending on the nature and seriousness of the offence) will be required before an application is likely to be considered favourably.

In particular: -

An application will normally be refused where the applicant has a conviction for any of the following offences and the conviction is less than **10 years** prior to the date the application is considered: -

- Arson
- Malicious wounding or grievous bodily harm (s18 and s.20 Offences Against the Person Act 1861) which is racially aggravated (s.29(1)(a) Crime and Disorder Act 1998)
- Actual bodily harm (s.47 Offences Against the Person Act 1861) which is racially aggravated (s.29(1)(b) Crime and Disorder Act 1998)

Where the conviction is more than 10 years but less than 12 years prior to the date the application is considered, more weight will be given to the circumstances of the offence and any evidence adduced to show good character since the date of conviction.

An application will normally be refused where the applicant has a conviction for any of the following offences and the conviction is less than **8 years** prior to the date the application is considered: -

- Grievous bodily harm with intent (s.18 Offences Against the Person Act)
- Grievous bodily harm (s.20 Offences Against the Person Act)
- Robbery (Theft Act 1968)
- Riot (s.1 Public Order Act 1986)
- Violent Disorder (s.2 Public Order Act 1986)

<p><b>Possession of a weapon</b></p>	<p>Where an applicant has a conviction for possession of a weapon or any other weapon related offence, a licence will not be granted until <b>at least 7 years</b> have elapsed since the completion of any sentence imposed.</p>	<p><b>Convictions involving Violence (including attempts or conspiracy to commit such offences)</b></p> <p>An application will normally be refused where the applicant has a conviction for any of the following offences and the conviction is less than <b>3 years</b> prior to the date the application is considered:-</p> <ul style="list-style-type: none"> <li>• Common assault and/or battery</li> <li>• Common assault and/or battery which is racially aggravated (s.29(1)(c) Crime and Disorder Act 1998)</li> <li>• Assault occasioning actual bodily harm (s.47 Offences Against the Person Act)</li> <li>• Assault on a police officer</li> <li>• Affray (s.3 Public Order Act 1986)</li> <li>• Offences against Public Order (non racially aggravated)</li> <li>• Offences of Harassment (non-racially aggravated)</li> <li>• Obstruction</li> <li>• Possession of offensive weapon</li> <li>• Possession of firearm</li> <li>• Criminal damage</li> <li>• Resisting arrest</li> </ul>
<p><b>Sex and Indecency</b></p>	<p>Where an applicant has a conviction for any offence involving or connected with illegal sexual activity or any form of indecency, <b>a licence will not be granted.</b></p> <p>In addition to the above, the licensing authority will <b>not grant a licence</b> to any applicant who is currently on the Sex Offenders Register or on any 'barred' list.</p>	<p><b>Convictions involving Indecency (including attempts or conspiracy to commit such offences)</b></p> <p>As hackney carriage and private hire drivers often carry unaccompanied passengers, applicants with convictions for soliciting, importuning, indecent exposure and/or any sexual offence will normally be refused a licence until they can show a substantial period (usually <b>between 3 and 10 years</b>) free from any such conviction.</p> <p>(In particular, an application will normally be refused where the applicant has a current conviction for any of the following offences</p>

		<p>and the conviction is less than <b>10 years</b> prior to the date the application is considered: -</p> <ul style="list-style-type: none"> <li>• Rape</li> <li>• Indecent/Sexual assault</li> <li>• Gross indecency with a female</li> <li>• Gross indecency with a male</li> <li>• Sexual offences against a child under 16 including sexual grooming</li> <li>• Sexual offences against persons with a mental disorder impeding choice</li> <li>• Buggery</li> <li>• Exposure</li> <li>• Offences involving indecent images of children</li> <li>• Voyeurism</li> </ul> <p>Where the conviction is more than 10 years but less than 12 years prior to the date the application is considered, more weight will be given to the circumstances of the offence and any evidence adduced to show good character since the date of conviction.</p> <p>In particular, an application will normally be refused where the applicant has a current conviction for either of the following offences which is less than <b>3 years</b> prior to the date the application is considered: -</p> <ul style="list-style-type: none"> <li>• Kerb-crawling</li> <li>• Persistent soliciting</li> </ul>
<p><b>Dishonesty</b></p>	<p>Where an applicant has a conviction for any offence of dishonesty, or any offence where dishonesty is an element of the offence, a licence will not be granted until <b>at least 7 years</b> have elapsed since the completion of any sentence imposed.</p>	<p><b>Convictions involving Dishonesty (including attempts or conspiracy to commit such offences)</b></p> <p>Members of the public entrust themselves to the care of drivers both for their own safety and for fair dealing (passengers may comprise especially vulnerable people). For these reasons a serious view is taken of any convictions involving dishonesty. In general, a period of <b>3 to 5 years</b> free of conviction will be required before an application is likely to be considered favourably.</p>

		<p>In particular, an application will normally be refused where the applicant has a conviction for any of the following offences which occurred fewer than <b>3 years</b> prior to the date the application is considered: -</p> <ul style="list-style-type: none"> <li>• Theft/Burglary and offences under the Theft Act 1968 (other than robbery/offences including violence which are dealt with below)</li> <li>• Fraud/misrepresentation and offences under the Fraud Act 2006</li> <li>• Benefit fraud (including offences under ss.111A and 112 of the Social Security Administration Act 1992)</li> <li>• TWOC – Taking a motor vehicle without the owner’s consent</li> <li>• Handling or receiving stolen goods</li> <li>• Forgery</li> </ul>
<p><b>Drugs</b></p>	<p>Where an applicant has any conviction for, or related to, the supply of drugs, or possession with intent to supply or connected with possession with intent to supply, a licence will not be granted until <b>at least 10 years</b> have elapsed since the completion of any sentence imposed.</p> <p>Where an applicant has a conviction for possession of drugs, or related to the possession of drugs, a licence will not be granted until <b>at least 5 years</b> have elapsed since the completion of any sentence imposed. In these circumstances, any applicant will also have to undergo drugs testing at their own expense to demonstrate that they are not using controlled drugs.</p>	<p><b>Convictions involving Drugs (including attempts or conspiracy to commit such offences)</b></p> <p>A licence will normally be refused where the applicant has more than one conviction for drug-related offences and has not been free from conviction for <b>5 years</b> from the date of the most recent conviction.</p> <p>A licence may be refused where the applicant has an isolated drug related conviction within <b>3-5 years</b> prior to the date the application is considered, consideration will be given to the nature and quantity of drugs involved and whether intended for personal use or supply.</p> <p>If there is evidence of persistent drug use, misuse or dependency, a specialist examination (in accordance with DVLA group 2 medical standards) may be required before the licence is granted. If an applicant was an addict then he would normally be required to show</p>

		evidence of a minimum of <b>5 years</b> free from drug taking after detoxification treatment.
<b>Discrimination</b>	Where an applicant has a conviction involving or connected with discrimination in any form, a licence will not be granted until <b>at least 7 years</b> have elapsed since the completion of any sentence imposed.	<b>No such topic within the Policy.</b> <b>See convictions involving violence</b>
<b>Motoring</b>	Hackney carriage and private hire drivers are professional drivers charged with the responsibility of carrying the public. Any motoring conviction demonstrates a lack of professionalism and will be considered seriously. It is accepted that offences can be committed unintentionally, and a single occurrence of a minor traffic offence would not prohibit the grant of a licence or may not result in action against an existing licence. <b>Subsequent convictions reinforce the fact that the licensee does not take their professional responsibilities seriously and is therefore not a safe and suitable person to be granted or retain a licence.</b>	<b>Minor Traffic Convictions where total number of points is 9 or fewer</b> – delegated authority to the Director, except where a DVLA licence has been revoked within the 2 year probationary period, under the Road Traffic (New Drivers) Act 1995, and a then a new DVLA licence obtained; even if the points are fewer than 9, the Director shall have no authority to grant the licence  <b>See Motoring Convictions</b>
<b>Drink driving/driving under the influence of drugs/using a hand-held telephone or hand held device whilst driving</b>	Where an applicant has a conviction for drink driving or driving under the influence of drugs, a licence will not be granted until <b>at least 7 years</b> have elapsed since the completion of any sentence or driving ban imposed. In these circumstances, any applicant will also have to undergo drugs testing at their own expense to demonstrate that they are not using controlled drugs.  Where an applicant has a conviction for using a held-hand mobile telephone or a hand-held device whilst driving, a licence will not be	<b>Motoring Convictions</b>  i) <u>Motoring Offences involving alcohol or drugs</u>  A serious view will be taken of convictions of driving or being in charge of a vehicle while under the influence of drink or drugs. Where a disqualification has occurred as a result of a drug or drink-driving offence, at least <b>5 years</b> free from conviction should elapse after the restoration of the DVLA licence, before an application for a driver's licence will be considered favourably.  An isolated conviction for drunkenness, without disqualification, will require careful consideration of the facts and will at the very least

	<p>granted until <b>at least 5 years</b> have elapsed since the conviction or completion of any sentence or driving ban imposed, whichever is the later.</p>	<p>merit a warning as to future driving and advice on the standard expected of hackney carriage and private hire vehicle drivers. More than one conviction for this type of offence or one such conviction within the <b>last 5 years</b> is likely to merit refusal.</p> <p>In addition, applicants will normally be required to show a period of at least <b>5 years</b> has elapsed after completion of detoxification treatment if (s)he was an alcoholic or drug addict.</p> <p><b>Use of mobile phone is dealt with as a minor motoring offence.</b></p>
<p><b>Other motoring offences</b></p>	<p>A minor traffic or vehicle related offence is one which does not involve loss of life, driving under the influence of drink or drugs, driving whilst using a mobile phone, and has not resulted in injury to any person or damage to any property (including vehicles). <b>Where an applicant has 7 or more points on their DVLA licence for minor traffic or similar offences, a licence will not be granted until at least 5 years</b> have elapsed since the completion of any sentence imposed.</p>	<p><b>Minor Traffic Convictions where total number of points is 9 or fewer</b> – delegated authority to the Director, except where a DVLA licence has been revoked within the 2 year probationary period, under the Road Traffic (New Drivers) Act 1995, and a then a new DVLA licence obtained; even if <b>the points are fewer than 9</b>, the Director shall have no authority to grant the licence</p> <p><u>Minor Traffic Offences after the 2 year probationary</u></p> <p>Isolated convictions for minor traffic offences should not prevent a person from proceeding with an application. However, the number, type and frequency of this type of conviction will be taken into account. If there are several convictions for minor traffic offences the applicant will normally be expected to show a period free of conviction of at least <b>6 months</b> from the date of the last conviction.</p> <p>An application will normally be refused where the applicant has <b>12 or more penalty points</b> on their DVLA licence for minor traffic convictions even if (s)he has not been disqualified from driving.</p> <p>Where a minor traffic conviction has 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 6 months free from conviction must have elapsed from the restoration of the DVLA licence.</p>

A major traffic or vehicle related offence is one which is not covered above and also any offence which resulted in injury to any person or damage to any property (including vehicles). It also includes driving without insurance or any offence connected with motor insurance. Where an applicant has a conviction for a major traffic offence or similar offence, a licence will not be granted until **at least 7 years** have elapsed since the completion of any sentence imposed.

## **Motoring Convictions**

### Driving offences involving the loss of life

A very serious view is taken of any applicant who has been convicted of a motoring offence that has resulted in loss of life.

A licence will normally be refused unless the applicant has been free of conviction for **7 years** from the date of the most recent conviction, or **3 years** from the completion of the sentence for the offence, whichever is the longer.

### Major Traffic Offences

An isolated conviction for a major traffic offence such as dangerous driving which involves a disqualification from driving for any period will require careful consideration of the facts, particularly where the offence has resulted in injury or accident. At least **3 years** free from conviction after the restoration of the DVLA licence should elapse before an applicant is granted a licence.

Where an applicant has been convicted of a major traffic offence which has not resulted in disqualification, careful consideration should be given to the circumstances surrounding the offence. An application for a licence will normally be refused where the conviction is less than **2 years** prior to the date the application is considered.

### Totting –up Disqualifications

Where a number of traffic offences has resulted in a driver receiving 12 penalty points or more on his/her licence the driver will be disqualified from driving unless the Court is satisfied that exceptional hardship would be suffered by an individual if disqualified. This is known as a “totting-up” disqualification. Where an applicant has a totting-up disqualification an application will normally be refused until a period of between **12 months and 2 years** has elapsed from the

restoration of the DVLA licence depending on the seriousness of the convictions which led to the totting up

**Hackney Carriage and Private Hire Offences**

Where an applicant has a conviction for an offence concerned with or connected to Hackney Carriage or private hire activity (excluding vehicle use), a licence will not be granted until **at least 7 years** have elapsed since the completion of any sentence imposed.

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

In particular, an applicant will normally be refused a licence where (s)he has been convicted of an offence under the Acts at any time during the **6 months preceding the date the application is considered or has more than one conviction within the 2 years preceding the date the application is considered.**

(i) “Plying for hire” Offences

Suspension of a driver’s licence may be appropriate where an existing licence-holder has been convicted of an offence of plying for hire. The following table serves as guidance on the appropriate length of suspension, but the suspension period may be varied depending on the individual circumstances surrounding each case.

<b>Circumstances</b>	<b>Period of Suspension</b>
Where a driver is convicted of Plying for Hire on a first occasion and the Borough Council is notified by the driver of the offence.	28 days
Where a driver is convicted of Plying for Hire on a first occasion and the Borough Council is <u>not</u> notified by the driver of the offence	56 days
Where a driver is convicted of Plying for Hire on more than one occasion within 2 years	112 days

In addition, the Committee takes a serious view where it is alleged that an applicant has committed an offence of plying for hire without a licence at any time during the 6 months immediately prior to the

		<p>date the application is considered. In such circumstances, the applicant will normally be refused a licence if the Committee is satisfied on balance that the applicant picked up a passenger without a prior booking.</p> <p>Where an existing licence holder is convicted of an offence of plying for hire and as a result of that offence is also convicted of driving without insurance, it is expected that the application will be decided in accordance with paragraph (f)(iii) Major Traffic Offences above.</p>
<b>Vehicle use offence</b>	Where an applicant has a conviction for any offence which involved the use of a vehicle (including hackney carriages and private hire vehicles), a licence will not be granted until <b>at least 7 years</b> have elapsed since the completion of any sentence imposed.	<b>No such topic within the Policy.</b>