



STATEMENT OF POLICY ABOUT RELEVANT CONVICTIONS

When submitting an application for a licence to drive a hackney carriage or private hire vehicle; or throughout the duration of an existing licence, applicants/existing licensees are required to declare all previous convictions they may have, this includes spent convictions.

The Rehabilitation of Offenders Act 1974 sets out the period after which a conviction is regarded as “Spent” and which would not normally necessitate disclosure of that conviction. However, in 2002 the Rehabilitation of Offenders Act 1974 was amended so as to exclude hackney carriage drivers and private hire vehicle drivers (Notifiable Occupation Scheme) from the effects of the 1974 Act. Applicants for such licences or existing licensees are, therefore, now required to disclose all convictions, including those that would previously have been regarded as spent under the 1974. Applicants/existing licensees are also required to declare all formal cautions and all endorsable fixed penalties they have received and to provide details of all criminal matters of which they are currently the subject of criminal investigation or prosecution.

The information given will be treated in confidence and will only be taken into account in relation to the relevant application, or the status of an existing licence, to assist the Council in determining whether the applicant is a fit and proper person to hold/continue to hold a driver’s licence for the purposes of sections 51 and 59 of the Local Government (Miscellaneous Provisions) Act 1976.

Applicants and existing licensees should be aware that the Council is empowered by law to check with the police for the existence and content of any criminal record held in their name. Information received from the police will be kept in strict confidence while the licensing process takes its course and will be retained no longer than is necessary.

The disclosure of a criminal record or other information relating to criminal matters will not necessarily debar an individual from obtaining/retaining a driver’s licence and each case will be determined on its own merits. Whether or not an applicant will be granted a licence, or the existing licensee retain a licence, will depend upon whether or not the Council can be satisfied that the individual is a fit and proper person to hold such a licence.

The Council may fail to be satisfied that an individual is a fit and proper person to hold a driver’s licence for any good reason. If adequate evidence of good character and record is

not adduced or if there is good reason to question or doubt the evidence provided then that could amount to good reason to refuse a licence.

The conviction of an existing licensee may lead to the revocation of his licence if he is no longer considered to be a fit and proper person to hold such a licence. Where this policy states that new applicants should be free of recent convictions of a certain kind, this indicates that the licence of an existing driver would generally be revoked if he were convicted of an offence of the same kind. However, in assessing the risk that an existing driver poses to the travelling public, the Council will consider all relevant factors, including the length of time that he has held his licence and his conduct as a licensed driver.

In considering evidence of an individual's good character and fitness to hold a driver's licence, where previous convictions or other information relating to criminal matters is 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. Where an individual has been convicted of a criminal offence the Council cannot review the merits of the conviction (*Nottingham City Council v. Mohammed Farooq (1998)*).

The following guidelines, relating to the relevance of convictions, have been drawn up in accordance with government advice contained in Department of Transport Circular 2/92 and Home Office Circular 13/92. The Council has adopted these guidelines for use in determining applications for hackney carriage and private hire vehicle drivers' licences, 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.

The guidelines do not deal with every type of offence. However, offences described in the guidelines and similar offences, though differently entitled in any statutory provision, modification or re-enactment, will be taken into account in accordance with the guidelines.

Any individual refused a driver's licence on the grounds that the Council is not satisfied he 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.

GENERAL POLICY

1. Each case will be decided on its own merits.
2. Applicants must have held a full UK driving licence for at least 1 year and this will be calculated from the date of issue of a full licence.
3. Applicants will be required to apply to the Disclosure & Barring Service authorising it to disclose any record of conviction to the District Council. You will have to pay the relevant fee and produce various documents to the Council as evidence of identity. The Council will have to countersign the form before it is sent to the Disclosure & Barring. Licensing staff will provide assistance in completing the form.
4. The overriding consideration is the safety of the public. The Council has a duty to ensure so far as possible that those licensed to drive hackney carriage and private hire vehicles

are suitable persons to do so, that they are safe drivers with good driving records and adequate experience, sober, courteous, mentally and physically fit, honest and not persons who would take advantage of their employment to abuse or assault passengers.

5. A person with a current conviction for a serious crime need not be permanently barred from obtaining a licence but should be expected to remain free of conviction for 3 to 5 years, according to the circumstances, before an application is entertained.
6. Some discretion may be appropriate if 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. The overriding consideration should always be the protection of the public.
7. The following examples afford a general guide on the action which might be taken where convictions are disclosed:-

MINOR TRAFFIC OFFENCES.

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 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.

In particular, an application will normally be refused where the applicant has 12 or more penalty points on his D.V.L.A. licence (whether or not the applicant was convicted by a court for the offences for which the points were imposed) or where the applicant has more than one conviction for this type of offence within the last 6 months.

Examples of offences covered under this section include:

AC10	Failing to stop after an accident.
AC20	Failing to give particulars or report an accident within 24 hours.
AC30	Undefined accident offence.
CU10	Using a vehicle with defective brakes.
CU20	Causing or likely to cause danger by reason of use of unsuitable vehicle or using a vehicle with parts or accessories (excluding brakes, steering, tyres) in a dangerous condition.
CU30	Using a vehicle with defective tyres.
CU40	Using a vehicle with defective steering.
CU50	Causing or likely to cause danger by reason of load of passengers.
CU 80	Breach of requirements as to control of the vehicle, mobile telephones etc.
SP10	Exceeding goods vehicle speed limit.
SP20	Exceeding speed limit for type of vehicle (excluding goods or passenger vehicle).
SP30	Exceeding statutory speed limit on a public road.
SP40	Exceeding passenger vehicle speed limit.
SP50	Exceeding speed limit on a motorway.
TS10	Failing to comply with traffic light signals.

TS20	Failing to comply with double white lines.
TS30	Failing to comply with a 'stop' signal.
TS40	Failing to comply with direction of a constable or traffic warden.
TS50	Failing to comply with traffic sign (excluding 'stop' sign, traffic lights or double white lines).
TS60	Failing to comply with school crossing patrol sign.
TS70	Undefined failure to comply with a traffic direction or sign.

MAJOR TRAFFIC OFFENCES.

An isolated conviction, without disqualification, for a major traffic offence will require careful consideration of the facts and will at the very least merit a warning as to future driving and advice on the standard expected of hackney carriage and private hire vehicle drivers. However, where the conviction is within 6 months prior to the date of application, or where there is more than one conviction of this type of offence within the last 2 years, the application will normally be refused and no further application should be considered until a period of 3 years, free from convictions, has elapsed.

Examples of offences covered under this section include:

CD10	Driving without due care and attention.
CD20	Driving without reasonable consideration for other road users.
CD30	Driving without due care and attention or without reasonable consideration for the other road users.
IN10	Using a vehicle uninsured against third party risks.
BA10	Driving whilst disqualified by order of Court.
BA30	Attempting to drive whilst disqualified by order of Court.

An application received which details one of the following offences on the D.V.L.A. driving licence (DD40, DD60, DD80) will automatically be refused, or a current licence suspended or revoked. No further application will be approved until such time as that conviction is removed under the Rehabilitation of Offenders period.

DD40	Dangerous driving.
DD60	Manslaughter or culpable homicide.
DD80	Causing death by reckless driving.

DISQUALIFICATION.

Where a period of disqualification has been imposed, an application will 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 must elapse from the date of the last conviction on the D.V.L.A. licence before an application is approved.

TOTTING-UP.

In 'totting-up' cases where disqualification is considered by the court, even if the court does not disqualify a driver (eg because of exceptional circumstances) the Council is likely to refuse a hackney carriage or private hire driver's licence application and the 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.

Drink and Drugs

A serious view should be taken of convictions of driving or being in charge of a vehicle while under the influence of drink or drugs. An isolated incident should not necessarily debar an applicant but strict warnings should be given as to future behaviour.

More than one conviction for these offences should raise grave doubts as to the applicant's fitness to hold a licence. At least 3 years should elapse (after the restoration of the driving licence) before an applicant is considered for a licence.

DRUNKENNESS - with a motor vehicle:

Examples of offences covered 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.
DR60	In charge of a vehicle then refusing to supply a specimen for analysis.
DR70	Failing to provide a specimen for breath test.

DRUNKENNESS - not with a motor vehicle:

An isolated conviction for drunkenness will not necessarily debar an applicant from gaining a licence. However a number of convictions for drunkenness could indicate a medical problem necessitating critical examination. Each case will be considered on its own facts.

DRUGS – with a motor vehicle:

Examples of offences covered under this section include:

DG10	Driving or attempting to drive with a drug level above specified limit.
DG60	Causing death by careless driving with drug level above the limit.
DG80	Driving or attempting to drive when unfit through drugs.
DG90	In charge of a vehicle when unfit through drugs.

DRUGS.

An application will not be considered until a minimum of 3 years free of conviction is shown.

Examples of 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.

INDECENCY OFFENCES.

An application will not be considered until a period of 3 years free of conviction is shown and any application with a conviction within this category will be put before the Licensing Sub-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. Living Off Immoral Earnings.
10. Prostitution.
11. Possessing or Distributing Obscene Material.
12. Buggery.
13. Rape.
14. Indecent or Nuisance telephone Calls.

VIOLENCE.

An application will not be considered until a minimum period of 3 years free of conviction is shown with the exception of 9,10, and 11 when 2 years for a single offence will be the appropriate period.

Examples of offences within this category will include:

1. Common Assault.	12. Common Assault – Aggravated.
2. Assault – Section 47.	13. Obstruction.
3. Grievous Bodily Harm – Section 20.	14. Robbery.
4. Grievous Bodily Harm – Section 18.	15. Possess Offensive Weapon.
5. Assault - Police.	16. Possess Firearm.
6. Affray.	17. Possess Firearm with Intent.
7. Riot.	18. Criminal Damage.
8. Manslaughter or Culpable Homicide with Driving.	19. Violent Disorder.
9. Using Threatening, Abusive Words or behaviour.	20. Resist Arrest.
10. Breach of the Peace.	21. Arson.
11. Drunk and Disorderly.	22. Murder.

An applicant with a conviction for murder will not be considered.

DISHONESTY.

Hackney carriage and private hire vehicle 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 a dishonest driver to defraud the public by demanding more than the legal fare etc. Overseas visitors can be confused by the change in currency and become "fair game" for an unscrupulous driver.

A serious view will therefore be taken of any conviction involving dishonesty. In general, a period of 3 to 5 years free of conviction should be required before entertaining an application.

Examples of offences in this category will include:

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

NOTE: In the Council's view this statement and the guidelines that follow are compatible with the rights and freedoms under the European Convention on Human Rights.

Handling, Use, Retention and Disposal of Disclosure & Barring Service Information

As an organisation using the Disclosure & Barring (D&B) service to assess the suitability of applicants for taxi licenses, East Suffolk Council comply with the D&B Code of Practice regarding the correct handling, use, storage, retention and disposal of Disclosures and Disclosure information. It also complies with the obligations under the Data Protection Act and other relevant legislation pertaining to the safe handling, use, storage, retention and disposal of Disclosure information.