

# THE REHABILITATION OF OFFENDERS ACT 1974

## (EXCEPTIONS) (AMENDMENT) ORDER 2002

The above Order places a requirement on all taxi drivers and applicants for a licence to drive taxis, to disclose ALL previous convictions.

The Rehabilitation of Offenders Act, 1974, (as regards to “spent” convictions), does now not apply to taxi drivers.

If you would like to discuss the affect a conviction may have on your application, you can speak to the Licensing Manager, in confidence, on 01824 706451.

### **Denbighshire County Council**

#### **Guidelines Relating to the Relevance of Convictions**

#### **Hackney Carriage and Private Hire Vehicle Drivers**

#### **GENERAL POLICY**

1. Each case will be decided on its own merits.
2. A person with a conviction or convictions need not be permanently barred from obtaining a licence but should be expected to remain free of conviction for 3 - 5 years, according to the circumstances, before an application is considered.
3. In cases or more serious offences which have lead to a term of imprisonment, the time periods given will run from the date the applicant was released from prison or detention centre or similar establishment, and not the date of conviction.
4. The following examples afford a **general guide** on the action to be taken where convictions or police cautions are revealed.
5. In all cases the overriding concern should be the protection of the public.
6. In all cases, the Rehabilitation of Offenders Act 1974 will be adhered to regarding convictions classed as being “spent”.
7. Where, in these guideline, an “application” is mentioned, this also refers to a “re-application” upon revocation of a current licence.

#### **TRAFFIC OFFENCES**

- ♦ Convictions for minor traffic offences, such as obstruction, contravention of waiting regulations etc should not prevent a person from making an application.
- ♦ If an applicant has previously accrued sufficient penalty points to require a period of disqualification, and has not been required to undergo a further driving test, then a licence may be granted after its restoration, with a strict warning as to the high standards that are required of licensed drivers.

- ♦ If an applicant has had a driving licence revoked following six or more penalty points accrued during the first two years since passing their driving test, then a period of 12 months free of further conviction **after** passing a further driving test should have elapsed before an application is considered.
- ♦ If an applicant has been ordered to retake a driving test after a period of disqualification for other offences which attract penalty points, then 6 months free of conviction, **after** passing the driving test, should have elapsed before an application is considered.

## **TRAFFIC OFFENCES INVOLVING DISQUALIFICATION**

- ♦ An isolated conviction for driving without due care and attention should not prevent a person from making an application.
- ♦ If an applicant has been convicted of an offence of dangerous driving, or other offence involving obligatory disqualification, and ordered to take an extended driving test at the end of the period of disqualification, a period of 12 months free of conviction, **after** passing the driving test, should have elapsed before an application is considered.

## **DRIVING WITHOUT INSURANCE OR DRIVING WHILST DISQUALIFIED**

- ♦ As licensed drivers are responsible for the safety of members of the public who are travelling in their vehicles, a serious view will always be taken of a conviction for driving without insurance or driving whilst disqualified.
- ♦ An applicant will generally have to show a period of at least 6 months free of conviction from these types of offences before an application is considered.
- ♦ If an applicant has been disqualified from driving as a result of convictions of this type, then the 6 months period shall run from the date of restoration of the licence.
- ♦ If an applicant has more than 1 conviction of this type within the last 3 years, then a period of 12 months, from the date of restoration of the licence, must have elapsed before an application is considered.

## **PLYING FOR HIRE**

- ♦ This is regarded as a serious offence as the vehicle insurance may be invalidated if the driver is found guilty of plying for hire in a vehicle other than a hackney carriage in the controlled district.
- ♦ A period of at least 6 months free of convictions should be shown before an application is considered.
- ♦ If a licence is granted, a strict warning will be given as to the conduct expected of licensed drivers.

## **FAILING TO WEAR IDENTIFICATION BADGE**

- ♦ A serious view will be taken of a person convicted of failing to wear the identification badge whilst acting as a licensed driver.
- ♦ An isolated conviction will not prevent an application being considered, however, if granted then a strict warning will be given as to the conduct expected of a licensed driver.
- ♦ If an applicant has been convicted of this offence more than once, then a period of 3 months free of conviction shall have elapsed before an application is considered.

## **DRUNKENNESS AND OTHER RELATED OFFENCES**

### **I) WITH A MOTOR VEHICLE**

- ♦ A serious view will always be taken of convictions of driving or being in charge of any vehicle whilst under the influence of drink or drugs or failing to provide a specimen for analysis.
- ♦ If an applicant has been disqualified and ordered to take either an extended driving test or a driving test, then a period of 12 months free of conviction **after** passing the necessary test, should have elapsed before an application is considered.

- ♦ If no further driving test has been ordered, then 6 months free of conviction after the restoration of the driving licence, should have elapsed before an application is considered.
- ♦ If the offence arose as a result of the persons being in charge of, or driving a licensed vehicle and ordered to take a further test, then a period of 2 years free of conviction after passing the necessary test should have elapsed before an application is considered.
- ♦ If no driving test has been ordered, then a period of 12 months free of conviction, after the restoration of the licence should have elapsed before an application is considered.
- ♦ If an applicant has more than 1 conviction of this type then grave doubts should arise as to the applicants suitability to hold a licence.
- ♦ At least 3 years must elapse after the restoration of the driving licence and passing any further driving tests if required, before an application is considered.
- ♦ If there is **any** suggestion that the applicant is an alcoholic or illegal drug user, a special medical examination should be arranged by a medical practitioner nominated by the Council.
- ♦ This examination must be certified as satisfactory before an application is considered.
- ♦ If it is ascertained that the applicant is an alcoholic or illegal drug user then no application will be considered until 5 years has elapsed after any treatment has been completed.

## ii) **NOT IN A MOTOR VEHICLE**

- ♦ An isolated conviction for a drink related offence should not debar an applicant from obtaining a licence
- ♦ A number of convictions for this type of offence may indicate a medical problem necessitating further examination as mentioned before.
- ♦ In some cases a warning will be given as to the standards expected of licensed drivers.

## iii) **DRUGS**

- ♦ An applicant with a conviction for a drug related offence should be required to show a period of at least 3 years free of conviction before an application is considered, or 5 years after detoxification treatment if the applicant was an addict

## **INDECENCY OFFENCES**

- ♦ Applicants with conviction for indecent exposure, indecent assault, importuning, or of any offence of a sexual nature should be refused a licence until a period of 3- 5 years free from conviction has elapsed.
- ♦ If the applicant was required to register on the National Sex offenders Register as a result of an offence, then no application will be considered whilst the applicant remains on the Register.
- ♦ An applicant with more than one conviction of this type of offence will not be considered suitable to license until a period of at least 5 years has elapsed following the most recent conviction.
- ♦ If a conviction of this type arose as a result of the person acting as a licensed driver then no application will be considered for at least 5 years after the conviction or, if longer, the conclusion of the sentence imposed.
- ♦ In all cases, if a licence is granted, then it will reduce to 6 months, after which time the person must undergo another criminal record check
- ♦ If no further convictions have been obtained, the next licence will be issued for the usual 12 months
- ♦ If further convictions have been obtained with the 6 month period of licence, no further application will be considered until a period of at least 5 years free of conviction has elapsed.

## **VIOLENCE**

- ♦ A firm line will be taken with applicants with conviction for grievous bodily harm, wounding, assault or any other type of offence of a violent nature.

- ♦ An applicant must be free of convictions for at least 3 years before an application is considered.
- ♦ In all cases, if a licence is granted, a strict warning will be given as to the standards expected of licensed drivers

## **DISHONESTY**

- ♦ A serious view will be taken of any conviction involving dishonesty.
- ♦ In general a period of 3-5 years free of conviction should be required before an application is considered.

## **POLICE CAUTIONS**

- ♦ A Police caution is considered and administered where a person comes to the notice of the Police for the first time, and the person admits the offence.
- ♦ A Police caution is considered to be similar to a conviction, as, if the person is convicted at court of a similar offence within 5 years of the caution being administered, then the caution can be brought to the attention of the court and any sentence passed would be regarded as being a second conviction and, therefore, a higher sentence may be imposed.
- ♦ In general, an application showing a caution may be considered and approved but the overriding consideration should be the protection of the public.

## **OTHER OFFENCES**

- ♦ Where a binding order, anti-social behaviour order or a restraining order has been imposed by a court, no application will be considered whilst that order is still current.
- ♦ A period free of at least 6 months (or 12 months for anti-social behaviour orders) of convictions must have elapsed, after expiry of the order, before an application is considered.
- ♦ In general, the overriding consideration should be the protection of the public.

## **SERIOUS OFFENCES**

If an offence or conviction is deemed to be “serious”\* and if granting a licence would be of detriment to the protection of the public, the Council will **not** grant a licence, subject to each application being considered on its own merits. \* *to be determined by the Head of Planning and Public Protection Services.*