

## Appendix 2

### **STATEMENT OF POLICY CONCERNING THE RELEVANCE OF CRIMINAL CONVICTIONS RELATING TO THE DETERMINATION OF APPLICATIONS AND RENEWAL FOR A PRIVATE HIRE VEHICLE DRIVER'S LICENCE**

1. When submitting an application for the grant Private Hire Vehicle Licence (Driver or Operator) applicants are required to declare any convictions they may have. Drivers and Operators are also required to notify South Derbyshire District Council (SDDC) of any convictions and accidents involving themselves that occur during the period of their licence.
2. In the case of convictions or fixed penalties for offences concerning the driving or keeping of a motor vehicle, relevant details are required for the five-year period preceding the date of the application. In the case of criminal offences, details are required in respect of ANY offence involving indecency, violence or dishonesty, serious offences connected with the driving of a motor vehicle or any drug or alcohol related offences irrespective of the date of the conviction.
3. The Council takes the view that for the purpose of exercising its powers relating to the licensing of Private Hire Vehicle drivers, the Rehabilitation of Offenders Act 1974 enables the Authority to require and consider details of convictions which would otherwise be regarded as "Spent" under that Act. Full disclosure for the categories of offence detailed in Paragraph 2 above is therefore required, but applicants have the Council's assurance that the information given will be treated in confidence and will only be taken into account in relation to the relevant application.
4. Applicants should be aware that the Licensing Authority is empowered by law to require the applicant to complete and return to SDDC and submit to the Criminal Record Bureau (CRB) an application form for the existence and content of any criminal record held in their name. Information received from the CRB will be kept in strict confidence while the licensing process takes its course and will be retained for no longer than is necessary. The Authority may use any information that is included on the CRB record during its deliberation of the application, which may include spent convictions.

5. The disclosure of a criminal record or other information will not debar an applicant from being granted a licence unless the Authority considers that the conviction renders them unsuitable. In making this decision, the Authority will consider the nature of the offence, and all relevant circumstances including whether, or not the conviction is spent pursuant to the Rehabilitation of Offenders Act 1974.
6. When determining a Private Hire Vehicle driver's licence application, the Council will have regard to its policy guidelines.
7. Any applicant refused a driver's licence on the ground that he/she is not fit and proper person to hold such a licence has the right of appeal to a Magistrates' Court. Such appeal must be made within 21 days of being notified of the Council's decision.

## **DETERMINATION OF PRIVATE HIRE VEHICLE DRIVERS' LICENCES**

### **GUIDELINES RELATING TO THE RELEVANCE OF CONVICTIONS and SPENT CONVICTIONS**

#### **Consideration of the relevance of Convictions**

##### **A. Introduction**

Each application for the grant or renewal of a Private Hire Vehicle Driver's licence will be decided on its own merits.

A person with a current conviction for serious crime need not be permanently barred from obtaining a licence but should be expected to remain free of conviction for three to five years, according to the circumstances, before an application would be considered. Some discretion may be appropriate if the offence is isolated and there are mitigating circumstances. However, the overriding consideration will be the protection of the public.

##### **B. Arrangements for Determining an Application when a Criminal Conviction has to be taken into Account**

All convictions will be considered on merit and will be weighed against the need to protect the public. Wherever possible the appointed proper officer for Licensing will determine the grant of the licence application. However, an interview will be offered to an applicant with past convictions that relate to offences involving indecency, violence or dishonesty, serious offences connected with the driving of a motor vehicle or any drug or alcohol related offence.

An interview will be offered at a Licensing Sub Committee Hearing in each case and the interview panel will comprise:-

Three Elected Member of the Licensing and Appeals Sub-Committee.

The applicant will be entitled to legal representation.

## General Guidance on the Consideration of Convictions Minor Traffic Offences

Convictions for minor traffic offences, e.g. obstruction, waiting in a restricted street, speeding etc., should not prevent a person from proceeding with an application.

### (ii) Major Traffic Offences

An isolated conviction for reckless driving or driving without due care and attention etc., should normally merit a warning as to future driving and advice on the standard expected of a Private Hire Vehicle drivers. More than one conviction for this type of offence within the last two years will usually merit refusal and normally no further application will be considered until a period of at least three years free from convictions has elapsed.

The period may be longer depending on the nature and circumstances of any offence(s).

### (iii)

#### Disqualifications

Applications will not normally be granted where an applicant has been disqualified from driving within the five years preceding the date of application. If however, disqualification has resulted from the points totting up procedure, then an application will not normally be considered until the expiry of a twelve month period following disqualification.

### (iv) Drunkenness

#### (a) With a Motor Vehicle

A serious view will be taken of convictions of driving or being in charge of a vehicle under the influence of drink.. More than one conviction for these offences will raise grave doubts as to the applicant's fitness to hold a licence. Usually, at least three years will elapse (after restoration of the driving licence) before an applicant is considered for a licence. If there is any suggestion that the applicant is an

alcoholic a medical examination with an appropriate Medical Officer will be arranged before an application is entertained. If the applicant is found to be an alcoholic, normally a period of five years will need to elapse after completion of treatment before a further licence application is considered. Convictions for offences relating to alcohol abuse commissioned when the applicant was driving a Private Hire Vehicle whilst engaged on licensed activities will be considered in a more serious light and a much longer period of rehabilitation will need to be demonstrated before a licence application will be entertained.

(b) Not in a Motor Vehicle

An isolated conviction for drunkenness need not debar an applicant from gaining a licence. However, a number of convictions for drunkenness could indicate a medical problem necessitating critical examination (see (a) above) In some cases a warning may be appropriate.

(v) Drugs

An applicant with a conviction for a drug related offence will normally be required to show a period of at least three years free of convictions before an application is entertained, or five years after detoxification treatment if he/she was an addict. Convictions relating to a drug related offence commissioned when the applicant was driving a Private Hire Vehicle whilst engaged on licensed activities will be considered in a more serious light and a much longer period of rehabilitation will need to be demonstrated before a licence application will be entertained.

(vi) Indecency Offences

As a Private Hire Vehicle drivers often carry unaccompanied passengers, applicants with convictions for indecent exposure, indecent assault, importuning, or any of the more serious sexual offences will normally be refused until they can show a substantial period (at least five years) free of such offences. More than one conviction of this kind will be likely to preclude consideration for at least five years after the date of the most recent conviction. In any event, if a licence is granted a strict warning as to future conduct will be issued. Convictions relating to offences of indecency commissioned when the applicant was

driving a Private Hire Vehicle whilst engaged on licensed activities will be considered in a more serious light and a much longer period of rehabilitation will need to be demonstrated before a licence application will be entertained.

(vii) Violence

As a Private Hire Vehicle drivers maintain close contact with the public, a firm line will be taken with applicants who have convictions for grievous bodily harm, wounding or assault. At least three years free of such convictions will normally be necessary before an application is entertained and even then a strict warning as to future conduct will be given. Convictions for offences relating to violence commissioned when the applicant was driving a Private Hire Vehicle whilst engaged on licensed activities will be considered in a more serious light and a much longer period of rehabilitation will need to be demonstrated before a licence application will be entertained.

(Viii) Dishonesty

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. Foreign visitors can be confused by the change in currency and become "fair game" for an unscrupulous driver. For these reasons, a serious view will be taken of any conviction involving dishonesty. Normally, a period of three years to five years free of conviction will be required before entertaining an application. Convictions for offences relating to dishonesty commissioned when the applicant was driving a Private Hire Vehicle whilst engaged on licensed activities will be considered in a more serious light and a much longer period of rehabilitation will need to be demonstrated before a licence application will be entertained.

(ix) Hackney Carriages

At present South Derbyshire District council does not have any vehicles operating as Hackney Carriages however if in the future such vehicles are licensed then these guidance notes would apply.