



Policy of Exeter City Council in relation to the Relevance of Convictions of Hackney Carriage and Private Hire Vehicle Drivers.

General Policy

The Council must be satisfied that all drivers are suitable [fit and proper in the law] to hold a drivers Licence. The Council will have look at all relevant matters such as convictions including those that are "spent convictions" which means those that would not show up on a basic Criminal Record Bureau check.

Whether a driver is fit and proper is decided by a Licensing Sub-Committee, each application being decided on its own merits.

If there is evidence that you may not be fit and proper, your application will be referred to a Licensing Sub-Committee. They will always put the protection of the public first when considering whether a licence should be refused or revoked.

A report explaining the convictions you have will be made to a Licensing Sub-Committee based on this Policy but the final decision as to whether you are fit and proper rests with them. The onus is on you to prove to that you are fit and proper.

If you have a conviction for a serious offence you are not necessarily prevented permanently from holding a Licence but you will be expected to remain free of conviction for a period depending on the nature and age of the conviction.

However, remaining free of convictions for a specified period may not be enough to show that you are fit and proper and additional evidence may be required.

There may be occasions where it is appropriate to depart from these guidelines when considering whether you are fit and proper. For example, where there are mitigating circumstances or where there are aggravating factors which may demonstrate unfitness.

Relevance of Rehabilitation of Offenders Act 1974

The law says that where you have only spent convictions they shall be treated for all purposes in law as not existing but when asked about your previous convictions, offences or warnings by a licensing officer and you are told about the law at the time, spent convictions are to be disclosed.

The following sets out the policy of the Council in relation to your convictions.

(a) Offences where refusal or revocation will always be recommended (Appendix A).

Where convictions for offences listed in Appendix A are identified, the recommendation will be to refuse an application for a new licence or revoke an existing Licence.

(b) Offences where refusal or revocation will be recommended within 5 years of the date of conviction or expiry of any custodial sentence imposed whichever is the later date (Appendix B).

Where convictions listed in Appendix B are identified the recommendation will be to refuse an application for a new licence, or revoke an existing Licence if the application is within 5 years from the date of conviction or the end of a custodial period.

The Council may take into account any information of a sexual nature which does not amount to a criminal offence that is brought to its attention where that information may indicate that an applicant may not be a fit and proper person to hold a licence.

Where there are two or more Appendix B convictions your application will normally be refused or revoked

c) Offences where refusal or revocation will be recommended within 3 years of the date of conviction or expiry of any custodial sentence imposed whichever is the later date (Appendix C).

Where convictions listed in Appendix C are identified the recommendation will be to refuse an application for a new licence, or revoke an existing Licence if the application is within 3 years from the date of conviction or the end of a custodial period

Where there are two or more Appendix C convictions your application will normally be refused or revoked

Where evidence is available that your conviction for drug related offences was due to being addicted to drugs, you will have to produce evidence that shows that you have been free of drug taking for at least 5 years after successfully completing a drug treatment programme.

d) Convictions for Road Traffic Offences (Appendix D)

Convictions Where Disqualification from Holding a Driver's Licence is Imposed

Where you have been disqualified from driving by the Courts, your application will generally be refused unless a period of 5 years free of conviction has passed since the return of the DVLA licence.

Where a disqualification is imposed by a court in a "totting-up" case, you will generally be refused unless a period of 2 years free of conviction has elapsed since the return of the DVLA driver licence.

In "totting-up" cases where a court does not impose a disqualification because of exceptional circumstances, an application will generally be refused unless an applicant can show a period of 2 year free of conviction from the date of the last Court appearance.

Other Convictions for Road Traffic Offences

Normally, convictions for other traffic offences not involving disqualification should not prevent someone obtaining a licence. However, if there are several convictions for these types of offence, an applicant will normally be expected not to have been convicted of an offence in the 6 months before an application is made.

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

One of the main purposes of the licensing regime is to ensure the protection of the public. For these offences the recommendation will be to refuse the application within 3 years of the conviction or to revoke the Drivers Licence if the offence arises during the currency of that Licence.

Appendix A

Very serious offences – in relation to convictions for the following offences the recommendation to the Licensing Sub-Committee will be to refuse application for the grant of a Licence or revoke the existing Licence

Arson

Murder

Manslaughter

Manslaughter or culpable homicide while driving

Rape

Serious Sexual Offences

Similar offences or offences which may replace the above offences.

CD40 Causing death through careless driving when unfit through drink

CD50 Causing death through careless driving when unfit through drugs

CD60 Causing death through careless driving with alcohol level above the limit.

CD70 Causing death through careless driving then failing to supply a specimen for analysis.

DD40 Dangerous Driving

DD60 Manslaughter or culpable homicide while driving a vehicle

DD80 Causing death by dangerous driving

MS50 Motor racing on a highway

UT50 Aggravated taking of a vehicle

Any offence of Aiding, Abetting or procuring the above offences.

(Note, the offence code will have the 0 replaced by a 2)

Any offence of Causing or permitting the above offences.

(Note, the offence code will have the 0 replaced by a 4)

Inciting any of the above offences.

(Note, the offence code will have the 0 replaced by a 6)

Appendix B

Serious offences- in relation to convictions for the following offences where less than 5 years since conviction or end of any custodial sentence whichever is later, the recommendation to the Licensing Sub-Committee will be to refuse application for the grant of a Licence or revoke the existing Licence the Licence.

Theft
Theft – shoplifting
Theft – employee
Theft – from vehicle
Burglary and theft – dwelling
Burglary and theft – non-dwelling
Burglary – aggravated
Fraudulent use
Handling
Receiving
Forgery
Conspiracy to defraud
Obtain money by deception
Obtain money by forged instrument
Deception
False accounting
False statement to obtain benefit
Going equipped
Taking/driving or attempting to steal a vehicle
Allow to be carried in a stolen vehicle
Perverting the course of justice
Malicious wounding or grievous bodily harm;
Assault occasioning actual bodily harm;
Assault with intent to cause grievous bodily harm;
Assaulting a Police Officer in the execution of their duties;
Malicious wounding;
Common assault by beating;
Battery;
Violent Disorder;
Riot;
Affray;
Robbery;
Offences relating to the supply of drugs.

Similar offences or offences which may replace the above offences.

Appendix C

Less serious offences- in relation to convictions for the following offences where less than 3 years since conviction or end of any custodial sentence whichever is later the recommendation to the Licensing Sub-Committee will be to refuse application for the grant of a Licence or revoke the existing Licence the Licence

Common assault

Criminal damage

Obstructing an officer

Resisting arrest

Offences relating to the possession of drugs

Public Order offences not listed in Appendix B

Other minor offences.

Similar offences or offences which may replace the above offences.

Appendix D

AC10	Failing to stop after an accident
AC20	Failing to give particulars or report an accident within 24 hours
BA10	Driving whilst disqualified by order of court
BA 30	Attempting to drive whilst disqualified by order of the Court
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 other road users.
CU10	Using a vehicle with defective brakes
CU20	Causing or likely to cause danger by use of unsuitable vehicle or using a vehicle with parts or accessories (excluding brakes, steering or tyres) in a dangerous condition
CU30	Using a vehicle with defective tyre(s)
CU40	Using a vehicle with defective steering
CU50	Causing or likely to cause danger by reason of load or passengers.
DR10	Driving or attempting to drive with alcohol level above limit
DR20	Driving or attempting to drive while unfit through drink
DR30	Driving or attempting to drive then failing to supply a specimen for analysis
DR40	In charge of a vehicle while alcohol above limit
DR50	In charge of a vehicle while unfit through drink
DR60	Failure to provide specimen for analysis in circumstances other than driving or attempting to drive
DR70	Failing to provide a specimen for a breath test
DR80	Driving or attempting to drive when unfit through drugs
DR90	In charge of a vehicle while unfit through drugs
IN10	Using a vehicle uninsured against third party risks
LC30	Driving after making a false declaration about fitness when applying for a licence
LC40	Driving a vehicle after having failed to notify a disability
MS70	Driving with uncorrected defective eyesight
LC20	Driving otherwise than in accordance with a licence
LC50	Driving after a licence has been revoked or refused on medical grounds
MS10	Leaving a vehicle in a dangerous position
MS20	Unlawful pillion riding
MS30	Play street offences
MS60	Offences not covered by other codes
MS80	Refusing to submit to an eyesight test
MS90	Failure to give information as to identity of driver etc.
MW10	Contravention of Special Road Regulations (excluding speed limits)
PC10	Undefined contravention of Pedestrian Crossing Regulations
PC20	Contravention of Pedestrian Crossing Regulations with a moving vehicle
PC30	Contravention of Pedestrian Crossing Regulations with a stationary vehicle
SP10	Exceeding goods vehicle speed limits
SP20	Exceeding speed limit for type of vehicle (excluding goods or passenger vehicles)

SP30	Exceeding statutory speed limit on a public road
SP40	Exceeding passenger vehicle speed limit
SP50	Exceeding speed limit on a motorway
SP60	Undefined speed limit offence
TS10	Failing to comply with traffic light signals
TS20	Failing to comply with double white lines
TS30	Failing to comply with "stop" sign
TS40	Failing to comply with direction of a constable/warden
TS50	Failing to comply with traffic sign (excluding stop signs, traffic lights or double white lines)
TS60	Failing to comply with a school crossing patrol sign
TS70	Undefined failure to comply with a traffic direction sign

Any offence of Aiding, Abetting or procuring the above offences.
(Note, the offence code will have the 0 replaced by a 2)

Any offence of Causing or permitting the above offences.
(Note, the offence code will have the 0 replaced by a 4)

Inciting any of the above offences.
(Note, the offence code will have the 0 replaced by a 6)

Appendix E

Offences Specific To Hackney Carriages, Private Hire Vehicles and Drivers

As well as the offences set out above there are specific offences set out in the two Acts that create offences relating to Hackney Carriages and Private Hire Vehicles and the drivers of those vehicles:

The offences are set out below. Those on the first page are offences arising from the 1847 Act, while those on subsequent pages are offences arising from the 1976 Act.

In relation to the maximum penalties specified, the levels of fine are currently as follows:

Level 1-£200 Level 2-£500 Level 3-£1,000 Level 4-£2,500.

Town Police Clauses Act 1847

Section	Offence	MaxPenalty
40	Giving false information on application for HC proprietor's licence.	Level 1
44	Failure to notify change of address of HC proprietor.	Level 1
45	Plying for hire without HC proprietor's licence.	Level 4
47	Driving a HC without HC driver's licence.	Level 3
47	Lending or parting with HC driver's licence	Level 3
47	HC proprietor employing unlicensed driver	Level 3
48	Failure by HC proprietor to hold HC driver's licence.	Level 1
48	Failure by HC proprietor to produce HC driver's licence	Level 1
52	Failure to display HC plate	Level 1
53	Refusal to take a fare.	Level 2
54	Charging more than the agreed fare.	Level 1
55	Obtaining more than the legal fare. and 1 month's imprisonment until the excess is refunded.	Level 3
56	Travelling less than the lawful distance for an agreed fare.	Level 1
57	Failing to wait after a deposit to wait has been paid.	Level 1
58	Charging more than the legal fare.	Level 3
59	Carrying other person than the hirer without consent.	Level 1
60	Driving HC without proprietor's consent	Level 1
60	Person allowing another to drive HC without proprietor's consent.	Level 1
61	Drunken driving of HC	Level 1
61	Wanton or furious driving or wilful misconduct leading to injury or danger.	Level 1
62	Driver leaving HC unattended.	Level 1
64	HC driver obstructing other HC's.	Level 1

Local Government (Miscellaneous Provision) Act 1976

Section	Offence	Maximum Penalty
49	Failure to notify the transfer of a HC proprietor's licence.	Level 3
50(1)	Failure to present a HC for inspection, as required.	Level 3
50(2)	Failure to inform the Licensing Authority where the HC is stored, if requested.	Level 3
50(3)	Failure to report an accident to the Licensing Authority.	Level 3
50(4)	Failure to produce the HC proprietor's licence and insurance certificate.	Level 3
53(3)	Failure to produce the HC driver's licence.	Level 3

57 Making a false statement or withholding information to obtain a HC driver's licence.	Level 3
58(2) Failure to return a plate after notice given following expiry, revocation or suspension of a HC proprietor's licence.	Level 3 plus daily fine of £10
61(2) Failure to surrender a driver's licence after suspension, revocation or refusal to renew.	Level 3
64 Permitting any vehicle other than a HC to wait on a HC stand.	Level 3
66 Charging more than the meter fare for a journey ending outside the district, without prior agreement.	Level 3
67 Charging more than the meter fare when HC used as private hire vehicle.	Level 3
69 Unnecessarily prolonging a journey.	Level 3
71 Interfering with a taximeter.	Level 3
73(1)(a) Obstruction of an authorised Officer or Constable.	Level 3
73(1)(b) Failure to comply with a requirement of an authorised Officer or Constable.	Level 3
73(1)(c) Failure to give information or assistance to an authorised Officer or Constable.	Level 3
46(1)(a) Using an unlicensed PH vehicle.	Level 3
46(1)(b) Driving a PH vehicle without a PH driver's licence.	Level 3
46(1)(c) Proprietor of a PH vehicle using an unlicensed driver	Level 3
46(1)(d) Operating a PH vehicle without a PH operator's licence.	Level 3
46(1)(e) Operating a vehicle as a PH vehicle when the vehicle is not licensed as a PH vehicle.	Level 3
46(1)(e) Operating a PH vehicle when the driver is not licensed as a PH driver.	Level 3
48(6) Failure to display a PH vehicle plate	Level 3
49 Failure to notify transfer of a PH vehicle licence.	Level 3
50(1) Failure to present PH vehicle for an inspection, as required.	Level 3
50(2) Failure to inform the Licensing Authority where the PH vehicle is stored, if requested.	Level 3
50(3) Failure to report an accident to the Licensing Authority.	Level 3
50(4) Failure to produce a PH vehicle licence and an insurance certificate.	Level 3
53(3) Failure to produce a PH driver's licence.	Level 3
54(2) Failure to wear a PH driver's badge.	Level 3
56(2) Failure by a PH operator to keep records of bookings.	Level 3
56(3) Failure by a PH operator to keep records of PH vehicles operated by him.	Level 3
56(4) Failure to produce a PH operator's licence on request.	Level 3
57 Making false statement or withholding information to obtain a PH driver or operator's licence.	Level 3
58(2) Failure to return plate after notice given following expiry, revocation or suspension of a PH vehicle licence.	Level 3 plus daily fine of £10
61(2) Failure to surrender a driver's licence after suspension, revocation or refusal to renew.	Level 3
67 Charging more than the meter fare when a HC used as PH vehicle.	Level 3
69 Unnecessarily prolonging a journey.	Level 3
71 Interfering with a taximeter.	Level 3
73(1)(a) Obstruction of an authorised Officer or Constable.	Level 3
73(1)(b) Failure to comply with a requirement of an authorised Officer or Constable.	Level 3
73(1)(c) Failure to give information or assistance to an authorised Officer or Constable.	Level 3

Transport Act 1980

Section	Offence	Maximum Penalty
64(2)(a)	Driving a PH vehicle with a roof sign, which contravenes s64 (1).	Level 3
64(2)(b)	Causing or permitting a PH vehicle to be driven with a roof sign which contravenes s64 (1).	Level 3

Legislation referred to in the Policy.

Section 51(1)(a) Local Government (Miscellaneous Provisions) Act 1976

Rehabilitation of Offenders Act 1974
Section 4(1)

Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 as amended.