



# ISLE OF WIGHT COUNCIL

## **POLICY RELATING TO THE RELEVANCE OF CONVICTIONS**

**For**

**HACKNEY CARRIAGE/PRIVATE HIRE DRIVERS  
AND PLEASURE BOATMEN**

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## Document Information

<b>Title:</b>	Policy relating to the Relevance of Convictions for Hackney Carriage/Private Hire Drivers and Pleasure Boatmen
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## 1 INTRODUCTION

- 1.1 This policy will become effective on 1 April 2015.
- 1.2 This policy relates to Hackney Carriage & Private Hire Drivers, Private Hire Operators and Boatmen.
- 1.3 This policy has been adopted after considering the provisions of the Local Government (Miscellaneous Provisions) Act 1976 (LGMPA), and the Public Health Acts Amendment Act 1907, which provide the Isle of Wight Council (the "Council") with the powers to carry out licensing functions in respect of Hackney Carriage and Private Hire vehicles, drivers and operators, and persons in charge of, or navigating licensed pleasure boats.
- 1.4 In setting out its policy, the Council seeks to promote the following objectives:
- To ensure that applicants for Hackney Carriage/Private Hire drivers licences and private hire operators' licences are fit and proper to be granted a licence.
  - The maintenance of a professional and respected hackney carriage and private hire trade
  - To ensure the suitability of boatmen to carry fare paying passengers.
- 1.5 The aim of this policy is to ensure there is consistency in considering convictions on application for a licence and during the period one is in place, for;
- Hackney Carriage/Private Hire Drivers;
  - Private Hire Operators;
  - Boatmen;
- 1.6 Any departure from this policy must be justified in writing and approved by a member of the Regulatory Services Management Team.
- 1.7 This Policy will be reviewed every five years or sooner at the discretion of the Head of Planning and Regulatory Services Manager.

## 2 Definitions

- 2.1 **The Council** means the Isle of Wight Council.
- 2.2 **The Licensing Authority** means the Isle of Wight Council
- 2.3 **A Hackney Carriage/Private Hire Driver** means a person who has applied for, or been granted a licence by the Council to drive a Hackney Carriage (Taxi) or a Private Hire Vehicle under Section 46, Town Police Clauses Act 1847 or Section 51, Local Government (Miscellaneous Provisions) Act 1976 respectively.
- 2.4 **Private Hire Operator** is the holder of a Private Hire Operator's Licence granted by the Council under Section 55 of the Local Government (Miscellaneous Provisions) Act 1976.

- 2.5 **Boatman** means a person who has applied for, or been granted a licence by the Council to be in charge of, or to navigate, a pleasure boat licensed under the Public Health Acts Amendment Act 1907.
- 2.6 **Licensing Officer and Authorised Officer** mean officers appointed from time to time by the Council to administer the statutory provisions relating to the licensing of Taxis and Private Hire Drivers.
- 2.7 **Appeal** is the means by which a decision made by the Licensing Authority can be reconsidered by the Magistrates or the Crown Court.

### **3 Guidance in Relation to Convictions**

- 3.1 The Council will use this Policy when determining if a person is fit and proper to hold a Hackney Carriage/Private Hire driver's licence or Private Hire Operator, or whether they are suitable to hold a Boatman Licence.
- 3.2 The Council will, in addition, have regard to its responsibilities under the Human Rights Act 1998, in particular Article of the first Protocol and Article 8. The Council will not re- consider the guilt of the applicant but will consider whether, taking everything into consideration, they are deemed fit and proper to hold a licence.
- 3.3 **Traffic Offences (Hackney Carriage/Private Hire Drivers)**
- 3.3.1 An applicant must be 21 and have held a full driving licence for at twelve months before applying for their first licence.
- 3.3.2 If an applicant, on first application has more than 6 points on their DVLA driving licence the application may be refused. The reasons for the points being attached to the applicants licence will be taken into account.
- 3.3.3 Convictions for minor traffic offences, including speeding, may not prevent a person from being granted a licence, or from continuing to hold a licence.
- 3.3.4 An isolated conviction for driving without due care and attention will not prevent a person from being granted a licence, or from continuing to hold a licence.
- 3.3.5 More than one conviction for a traffic offence will result in refusal or revocation of a licence. In these circumstances an application will not be considered until the person has remained conviction free for a period of at least 3 years from the date of last relevant conviction.
- 3.3.6 If a person becomes disqualified from driving under the DVLA points system, any licence issued by the Council will automatically be revoked. The person may only be considered for re-licensing after the restoration of the DVLA driving licence and on receipt of a new application. Any application will be determined in accordance with the relevant section(s) this policy.

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### 3.4 **Alcohol and Drug-related Offences (HC/PH Drivers and Boatmen)**

- 3.4.1 An isolated conviction for a minor alcohol-related offence, e.g. drunk and disorderly, or drug-related offence, e.g. personal possession will not prevent a person from being granted a licence, or from continuing to hold a licence.
- 3.4.2 More than one conviction for this type of offence will result in refusal or revocation of a licence.
- 3.4.3 A single conviction for a more serious offence, e.g. drink-driving or producing/supplying drugs will result in refusal or revocation of a licence.
- 3.4.4 Where a period of disqualification from driving has been imposed due to alcohol or drug-related convictions, a licence will not be granted until a period of 3 years has elapsed from the date of the reinstatement of the applicant's driving licence.
- 3.4.5 For more than one minor alcohol and drug related conviction or for a more serious drug conviction a further application will not be considered until the person has remained free from convictions of alcohol and drug-related offences of for a period of 3 years since the date of the last relevant conviction.
- 3.4.6 A serious view will be taken of any conviction whilst under the influence of drink or drugs, or for failing to provide a specimen of blood, breath or urine if requested by a police officer whilst driving a licenced taxi or boat. In these circumstances a licence application will be refused or an existing licence revoked.

### 3.5 **Indecency Offences (HC/PH Drivers and Boatmen)**

- 3.5.1 Applicants with convictions for indecent exposure, indecent assault, importuning or any other serious sexual offence will result in a licence or renewal application being refused or revoked.
- 3.5.2 A new licence application will not be considered until the person has remained free from convictions of Indecency Offences for a period of 3 years since the date of the last relevant conviction.

### 3.6 **Violence Offences (HC/PH Drivers and Boatmen)**

- 3.6.1 Applicants who have convictions for violence will not automatically result in refusal or revocation of a licence. In these cases the applicant may be requested to provide further details of the offence to enable the Council to determine if a licence can be granted.
- 3.6.2 Applicants who have received convictions for wounding, grievous bodily harm, actual bodily harm, will result in a licence application being refused or an existing licence being revoked.
- 3.6.3 A new licence application will not be considered until the person has remained free from convictions of Violence Offences for a period of 3 years since the date of the last relevant conviction.

### 3.7 **Dishonesty & Fraud (HC/PH Drivers and Boatmen)**

3.7.1 Applicants who have convictions for offences of dishonesty or fraud will be refused a licence or an existing licence revoked

3.7.2 A new licence application will not be considered until the person has remained free from convictions of dishonesty & fraud offences for a period of 3 years since the date of the last relevant conviction.

### 3.8 **General (HC/PH Drivers and Boatmen)**

3.8.1 The Council will consider all other offences in accordance with the Rehabilitation of Offenders Act 1974 (as amended March 2014) if deemed relevant.

3.8.2 The Council may also consider any offences which did not result in a conviction but where a simple caution was issued.

3.8.3 In all circumstances the Council will consider all offences in determining if a person is fit and proper. The offences do not have to directly relate to the activity they are applying for. A number of various offences collectively could also be used to demonstrate the person is not suitable to hold a licence.

## 4. **Rehabilitation of Offenders Act 1974**

4.1 All criminal convictions may be relevant for hackney carriage driver, private hire driver and boatmen licences and must be declared.

4.2 For all other offences not listed in section 3 above the council will use the rehabilitation periods defined in Section 5 of Rehabilitation of Offenders Act 1974 to assist their decision.

4.3 The following chart summarises the rehabilitation periods:

<b>Custodial Sentences</b>	<b>Rehabilitation Period</b>
0 – 6 months	Period of sentence plus 2 years
6 – 30 months	Period of sentence plus 4 years
30 months – 4 years	Period of sentence plus 7 years
Over 4 years	Never spent
<b>Non – Custodial Sentences</b>	
Community Order	1 year from end of sentence
Fine	1 year from date of conviction
Absolute discharge	None
Conditional Discharge Referral Order	Period of Order

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Reparation Order Action Plan Order Supervision Order Bind Over Order Hospital Order	
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4.4 The rehabilitation period may be extended by the commission if a further offence is committed during the rehabilitation period.