

CRIMINAL CONVICTIONS AND BEHAVIOUR

1.0 Definitions:

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| <u>Appeal</u> | A review of our decision. You appeal to the magistrates' court or the crown court within 21 days of the decision. The court may uphold our decision (if the court agrees with us) or overturn it (if the court agrees with you); |
| <u>Conviction</u> | A court decides someone is guilty of a crime; |
| <u>Custodial sentence</u> | A sentence of imprisonment (for a person over 18) or detention (for a person under 18) |
| <u>Conviction-free period</u> | A period without any further convictions; |
| <u>Mitigating circumstances</u> | A conviction's circumstances, presented to explain why it happened and try to reduce its seriousness; |
| <u>"Offence" or "Offences"</u> | Any criminal offence and/or any other behaviour which brings into question whether the applicant is a fit and proper person; |
| <u>Fit and proper person</u> | A person the council thinks has the right characteristics and ability because, for example, they: <ul style="list-style-type: none">• are no threat to the public• have good knowledge• are healthy• are of good character (including driving record). |

We therefore regard them as fit and able to hold a licence.

1.1 Introduction

The licensing authority must be satisfied that the applicant is a 'fit and proper' person to hold a licence. The assessment of a person's criminal conviction and behaviour history is deemed an essential safety measure on assessing the suitability of an applicant as the council must ensure that applicants do not pose a threat to the public; the public are safeguarded from dishonest persons and ensure the safeguarding of children and young persons.

Hackney-carriage and private-hire drivers are listed as regulated occupations in the Rehabilitation of Offenders Act 1974 (Exceptions) Order (Amendment) (No 2) 2002. Therefore a conviction is 'never spent'. This means that when deciding whether you can be licensed, we will always be able to consider a conviction you have had.

All types of criminal offences can be relevant. So we take into account **all** convictions, regardless of the offence, sentence or age at the time. All motoring and criminal convictions must be declared on the application form. An application form must be fully completed together with the results of an enhanced criminal check (for the child and adult workforce level) through the Disclosure and Barring Service (DBS).

In addition, any formal cautions received and any pending criminal or motoring matters must be disclosed.

Any information given will be treated in confidence and will only be taken into account in relation to the applicant in question.

The disclosure of a criminal record or other information received may not necessarily debar an applicant from obtaining a licence unless the Council considers the conviction(s) renders the applicant not fit to hold a licence.

Applicants should be aware that each case will be taken on its own merit.

Some discretion may be appropriate if the offence and/or behaviour is isolated and there are mitigating circumstances. Equally the history of offending (including multiple offences/combinations of offences /types of offences) and/or behaviour may warrant a longer period free from conviction.

Whilst it is possible that an applicant may have a number of convictions that, individually, meet the guidelines below, the overall offending history will be considered when assessing the applicant's suitability to be licensed.

A series of offences over a period of time is more likely to give cause for concern than an isolated minor conviction. Obviously some discretion can be used if an offence is isolated and there are mitigating circumstances, but the overriding consideration is the protection of the public.

Simply remaining free of conviction will not necessarily be sufficient to show that a person is fit and proper where other circumstances/evidence brings this into question. Further it should always be remembered that the periods free of conviction in this section are suggested minimums.

Notwithstanding and without prejudice to any other provision within this document, ordinarily the Licensing Authority would as a minimum expect the standard rehabilitation periods identified in the Rehabilitation of Offenders Act 1974 to have expired (ignoring for this paragraph only the provisions of Rehabilitation of Offenders Act 1974 (exception order) 1975) prior to granting any licence.

Criminal convictions will be considered by Licensing Officers or in cases of doubt by the Chief Environmental Health Officer or the Licensing Committee.

An application from any person awaiting trial for an offence which brings into question whether they are a fit and proper person (including but not limited to death by dangerous driving, drugs, violence, sexual offences, dishonesty, driving under the influence of alcohol or drugs, or offences of a habitual nature) will not normally be considered until the outcome of the trial.

In order for the Licensing Authority to fully consider the case on its merits, the applicant should provide a written statement of the offences, with evidence, covering the nine points in the paragraph below, which would be available for examination by the Licensing Authority.

Where the Licensing Authority becomes aware of issues including previous criminal history/convictions, any arrest, any charges, inappropriate behaviour for a hackney carriage/private hire driver and/or significant comments on any DBS check, consideration will be given to each applicant's suitability for licensing against the following criteria (in no particular order):

- nature of the offence/conduct/charge etc.;
- circumstances in which the offence/conduct/charge etc. was committed;

- circumstances of the individual concerned;
- subsequent periods of good behaviour;
- overall conviction/behaviour history;
- sentence imposed by the court ;
- seriousness of the offence/conduct/charge etc.;
- any other character check considered reasonable (e.g. personal references);
- taking all the above issues into account, together with any other relevant issues, whether the protection of the public may be at risk.

These guidelines do not deal with every type of offence, and do not prevent the Licensing Authority from taking into account offences not specifically addressed in the guidelines, or other conduct which may be relevant as to whether an individual is a fit and proper person to hold a hackney carriage or a private hire driver's licence.

Any Offences against Children (under 14) and Young Persons (14 to 17) will raise serious concerns as to an applicant's fitness to hold a hackney carriage/ private hire driver licence. Drivers of hackney carriage and private hire vehicles are often entrusted with the care of children and young persons. It is comparatively easy for an unscrupulous driver to take advantage of such vulnerable persons. The Council seeks to minimise risks associated with children and young persons and for that reason an application for a licence will normally be refused to any person who has offences against children and young person recorded against them.

Any individual who is refused a hackney carriage/private hire driver licence or has their licence suspended or revoked on the grounds that the Council is not satisfied he/she 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.

1.2 Suitability to hold a Licence

The law says we may grant a licence **only** if we are satisfied that the person is 'fit and proper'. So an applicant or existing driver must prove that they are an appropriate person to hold a licence.

The law says you must be a 'fit and proper' person to hold a licence. This means you must:

- be a safe driver with a good driving record;
- have adequate driving experience;
- be mentally and physically fit;
- be honest;
- not take advantage of your position to abuse, assault or defraud customers.

We will consider the range of passengers you might carry, such as:

- elderly people;
- unaccompanied children;
- disabled people;
- those who have had too much to drink;
- lone women;
- foreign visitors;
- unaccompanied property.

Some areas cause particular concern:

- **Honesty and trustworthiness** – drivers often know that a customer is leaving a house empty; and they have opportunities to defraud drunken, vulnerable or foreign people, or to steal property left in cars. You must not abuse your position of trust. For example, passengers expect you to charge the correct fare and give the correct change; they expect you to hand in any article they leave in a vehicle; and they expect you to maintain confidentiality;
- **Not abusive** – drivers are often subject to unpleasant or dishonest behaviour. We do not expect drivers to retaliate with aggressive or abusive conduct. Drivers are expected to avoid confrontation, and to tackle disputes through the proper legal channels. They should never take the law into their own hands;
- **Good and safe driving** – Passengers rely on you to get them safely to their destination, so you should be fully aware of all road-traffic law and your licence conditions;
- **Appropriate Behaviour**- Drivers must act appropriately at all times whilst undertaking their duties. Appropriateness will extend to courtesy to the passenger(s) and other road users alike. Drivers should not have or encourage conversations which could cause discomfort to their passenger(s), this includes asking personal questions about passenger(s) and other people. Opinions on sexuality, race or religion must not be discussed.

The council must ensure that licensed drivers, operators and proprietors will **not** be a risk to the public. Some applicants may say our decisions punish them again for the same conviction, but this is not our intention.

1.3 Driving Offences

Private hire and hackney carriage drivers are professionals who must at all times be aware of their passengers' safety and that of their vehicles. All traffic offences result from irresponsible driving or a lack of vehicle maintenance.

Convictions for traffic offences (including fixed penalties) will not necessarily prevent an applicant from obtaining a licence. However, consideration will be given to the number, type and frequency of an offence. In some cases a licence may be issued along with a strong warning as to future driving conduct. Disclosure of a significant history of offences may result in the refusal of an application.

1.4 Minor Motoring Offences

Convictions for minor traffic offences such as some speed limit offences, or non-endorsable traffic offences such as obstruction or waiting in a restricted street should not prevent a person from applying to be a hackney carriage or private hire driver, unless exceptional circumstances justify a refusal. However, the number, type, frequency and repetition of these types of offences may be taken into account

For existing drivers who have accumulated 9 or more points on their DVLA driving licence, their Hertsmere issued driver licence will normally be suspended until the driver has successfully undertaken a driving test with an accredited DVSA provider approved by the council which may include a test that is at a more advanced level. If you

have been previously disqualified by the DVLA for any period of time, you will be required to undertake the more advanced driving test with an accredited DVSA provider approved by the council

Such a test will be at the licence holder's expense.

1.5 Traffic Offences involving the loss of life

A very serious view will be taken of any applicant who has been convicted of a driving offence that resulted in the loss of life.

Before an application is entertained, an applicant should be free of conviction for 7 years' from the date of completion of any sentence, such offences include:

- Causing death by dangerous driving;
- Causing death by careless driving whilst under the influence of drink or drugs;
- Similar or replacement offences to those listed above (including attempted or conspiracy to commit).

1.6 Major Traffic Offences not involving the loss of life

A very serious view will also be taken of any applicant who has been convicted of a major traffic offence even if it has not involved the loss of life, as it raises questions as to the applicant's ability to protect the public.

Before an application is entertained, an applicant should be free of conviction for 5 years' from the date of completion of any sentence, such offences include:

- Dangerous driving;
- Reckless Driving;
- Similar or replacement offences to those listed above (*including attempted or conspiracy to commit*).

1.7 Other Serious Traffic Offences

Other serious traffic offences include:

- Accident offences;
- Driving without due care and attention;
- Careless driving;
- Construction and use offences;
- Licence offences;
- Traffic direction and sign offences;
- Similar or replacement offences to those listed above (including attempted or conspiracy to commit).

Insurance offences and alcohol/drug offences are dealt with under their own separate subsections below.

Driving whilst disqualified and theft/unauthorised taking of a vehicle are dealt with under the 'Dishonesty' subsection below.

A conviction for a serious traffic offence will normally merit refusal to issue a licence. No further application will be considered until a period of 5 years' free of conviction since completion of any sentence, has elapsed.

1.8 'Totting Up' – Section 35 Road Traffic Offenders Act 1988

If the total number of penalty points reaches 12 or more within 3 years', the driver is liable to be disqualified from driving by the Court.

An applicant, who has been disqualified under the totting up rules, will normally be refused a licence until a conviction-free period of 1 year can be shown following restoration of the DVLA driving licence.

As totting up usually leads to disqualification, you may have told the court that this would cause you 'exceptional hardship' so that a disqualification period is not imposed. Even if an 'exceptional hardship' argument was successful with the court and your DVLA licence is retained, an applicant may still be refused a hackney carriage / private hire driver licence until a conviction-free period of 1 year can be shown.

Existing drivers who have successfully argued an 'exceptional hardship' case may still have their hackney carriage / private hire driver licence revoked and a conviction-free period of 1 year must be shown before a further application will be processed.

Any applicant that has been previously disqualified by the DVLA for any period of time, a more advanced driving test with an accredited DVSA provider approved by the council must be undertaken.

Any applicant who has received more than 1 period of disqualification will not be considered 'fit and proper' to hold a private hire or hackney carriage driver licence unless exceptional circumstances exist.

1.9 Drink Driving / Driving under the influence of Drugs (*including medication*)

A serious view is taken of driving or being in charge of a vehicle whilst under the influence of drink or drugs. Licence holders are seen as professional vocational drivers therefore drink/drug driving convictions raise serious concerns for the safety of the public.

An isolated incident of drink driving or driving under the influence of legal drugs should not necessarily debar an application (provided there was no conviction for a traffic offence involving loss of life whilst under the influence of drink or drugs - see separate subsection 1.5 above) but strict warnings will be given as to future behaviour.

At least 5 years' should elapse, after the restoration of the DVLA full driving licence (if a disqualification period was imposed) before an applicant will be considered for a private hire or hackney carriage driver licence.

More than 1 conviction for these offences or any conviction for driving under the influence of illegal drugs will raise grave doubts as to an applicant's fitness to drive the public and therefore hold a licence.

If there is reason to suspect persistent alcohol and/or drugs use, misuse or dependency (e.g. 2 or more offences relating to alcohol or drugs, with or without a vehicle) a specialist medical examination and report will be required before an application is entertained to ensure that the applicant meets the DVLA Group 2 medical standards in relation to alcohol/drug misuse and dependency. If the applicant is found to be (or to previously have been) alcohol

or drug dependent, a period of 5 years' should elapse after treatment is complete before an application is considered.

1.10 Drunkenness without a Motor Vehicle

An isolated conviction for drunkenness need not debar an applicant from obtaining a licence. However a number of convictions could indicate a medical problem necessitating a medical examination. In some cases a warning would be sufficient. If there is reason to suspect persistent alcohol use, misuse or dependency (e.g. 2 or more offences for drunkenness with or without a motor vehicle) a specialist medical examination and report may be required to ensure that the applicant meets the DVLA Group 2 medical standards in relation to alcohol misuse and dependency.

1.11 Illegal Drugs without a Motor Vehicle

A serious view is taken of any illegal drugs related offence. The nature and quantity of the drugs, whether for personal use or supply, are issues which will be considered.

An applicant would normally be expected to be free of conviction relating to the possession of illegal drugs for 5 years since the completion of any sentence.

An application will normally be refused where the applicant has more than 1 conviction for offences related to the possession of illegal drugs and has not been free of conviction for 7 years since the completion of any sentence.

An application will normally be refused where the applicant has a conviction for an offence related to the supply, importing or production of illegal drugs and has not been free of conviction for 10 years since the completion of any sentence.

If there is reason to suspect persistent drug use, misuse or dependency (e.g. 2 or more convictions relating to any drugs, with or without a vehicle) a specialist medical examination and report will normally be required before an application is entertained to ensure that the applicant meets the DVLA Group 2 medical standards in relation to drug misuse and dependency. If the applicant is found to be (or to previously have been) drug dependent, a period of 5 years should elapse after treatment is complete before a further licence application is considered.

1.12 Sex and Indecency Offences

As hackney carriage and private hire drivers often carry unaccompanied and vulnerable passengers, applicants who have been convicted of sexual or indecency offences (or where there is other behaviour and/or evidence to suggest a disposition to commit such offences) must be closely scrutinised.

An applicant with more than 1 conviction for such offences will have their application refused.

Applicants with convictions for the more serious sexual offences will usually be refused. For other offences, applicants will be expected to show a substantial period free of conviction for such offences before an application will be granted.

In particular:

(i) Unless there are exceptional circumstances, an application will normally be refused where the applicant has a conviction for offences such as:

- Rape;
- Assault by penetration;
- Offences involving children or vulnerable adults;
- Sexual assault;
- Indecent assault;
- Possession of indecent photographs, child pornography etc.;
- Exploitation or prostitution;
- Trafficking for sexual exploitation;
- Trafficking for prostitution;
- Trafficking for exploitation;
- Indecent exposure;
- Similar or replacement offences to those listed above (including attempted or conspiracy to commit);
- Any sex or indecency offence that was committed in the course of employment as a taxi or PHV driver.

(ii) Before an application is granted, an applicant should be free of conviction for at least 7 years since the completion of any sentence, if he/she has a conviction for an offence such as:

- Soliciting (e.g. kerb crawling);
- Importuning;
- Similar or replacement offences to those listed above (including attempted or conspiracy to commit).

Offences of holding obscene material also fall into the sexual offences category. We normally expect an applicant to have a conviction-free period of 7 years.

If an application is successful and a licence is granted a strict warning as to future conduct will be issued.

Persons on the sex offenders register will not be considered a 'fit and proper' person to hold a hackney carriage / private hire driver licence.

If the police notify us they are investigating a driver for a sexual offence, we may revoke their licence with immediate effect because of the potentially high risk to the public. Alternatively, the driver may wish to voluntarily suspend their licence until the outcome of the police investigation.

1.13 Offences Involving Children

Any Offences against Children (under 14) and Young Persons (14 to 17) will raise serious concerns as to an applicant's fitness to hold a hackney carriage/ private hire driver licence. Drivers of hackney carriage and private hire vehicles are often entrusted with the care of children and young persons. It is comparatively easy for an unscrupulous driver to take advantage of such vulnerable persons.

Unless there are exceptional circumstances the council will normally refuse applicants who have any convictions for rape, assault, any sex offence with a child or any other sex offence with a vulnerable person as defined by the Sexual Offences Act 2003.

1.14 Violence

As hackney carriage and private hire drivers maintain close contact with the public, a firm line will be taken with applicants/ drivers who have offences involving violence.

An application will normally be refused if an applicant has a conviction for an offence that involves loss of life or serious injury.

At least 5 years free of conviction since the completion of any sentence, should be shown before an application is entertained from anyone whose offending history and/or other behaviour/evidence suggests an aggressive or violent disposition and even then a strict warning will be administered as to future conduct.

However given the range of offences that involve violence, consideration must be given to the nature of the offences. In particular:

(i) Unless there are exceptional circumstances, an application will normally be refused where an applicant has a conviction for offences such as:

- Murder;
- Manslaughter;
- Manslaughter or culpable homicide while driving;
- Terrorism offences;
- Similar or replacement offences to those listed above (including attempted or conspiracy to commit).

(ii) Before an application is granted, an applicant should be free of conviction for at least 7 years (or at least 5 years must have passed since the completion of the sentence, whichever is longer) for offences including:

- Arson;
- Kidnapping;
- Threats to kill;
- Wounding with intent to cause grievous bodily harm;
- Grievous bodily harm;
- Robbery;
- Burglary;
- Possession of a weapon;
- Any 'hate' crime or offence ordinarily falling within paragraph (iii) below aggravated by a 'hate' crime;
- Similar or replacement offences to those listed above (including attempted or conspiracy to commit).

(iii) Before and application is granted, an applicant should be free of conviction for at least 5 years since the completion of any sentence, for offences including:

- Common assault;
- Assault occasioning Actual Bodily Harm;

- Affray;
- Assault with intent to resist arrest;
- Assault on Police;
- Public Order offences;
- Criminal Damage;
- Harassment;
- Similar or replacement offences to those listed above (including attempted or conspiracy to commit).

An application will normally be refused if an applicant has more than 1 conviction in the last 10 years for an offence of a violent nature.

1.15 Possession of a Weapon

An applicant with a conviction of possessing a weapon or any other weapon related offences will give serious concern as to the applicants' fitness to hold a private hire / hackney carriage driver licence and to carry members the public around.

The Council considers this to be an unacceptable risk to members of the public and the application will normally be refused.

In the case of an existing driver, the hackney carriage / private hire driver licence will normally be revoked and will then not be considered fit and proper to hold a further licence with Hertsmere Borough Council.

1.16 Dishonesty

A hackney carriage or private hire driver is expected to be a trustworthy person. They deal with cash transactions and valuable property may be left in their vehicle in error.

The widespread practise of delivering unaccompanied property is indicative of the trust that business people place in licensed drivers. Moreover, it is comparatively easy for a dishonest driver to defraud the public by demanding more than their legal fare etc. Overseas visitors can be confused by our currency or costs of journeys and may be vulnerable to an unscrupulous driver. Licence holders also have access to the names and addresses of their customers and their daily movements. For all these reasons, a serious view is taken of any conviction involving dishonesty.

In general, a minimum period of 5 years free of conviction since the completion of any sentence will be required before entertaining an application.

Offences involving dishonesty for the purposes of this policy include:

- theft,
- burglary,
- fraud,
- benefit fraud,
- handling or receiving stolen goods,
- forgery,

- conspiracy to defraud,
- obtaining money or property by deception,
- other deception,
- taking a vehicle without consent,
- driving whilst disqualified,
- or any similar offences (including attempted or conspiracy to commit) offences which replace the above.

A licence will not normally be granted if an applicant has more than 1 conviction for a dishonesty offence.

1.17 Insurance Offences

A serious view will be taken of convictions of driving or being in charge of a vehicle without insurance. An isolated incident in the past will not necessarily stop a licence being granted provided the applicant has been free of conviction (from the date of the completion of any sentence) for 3 years; however a strict warning will be given as to future behaviour.

A licence will not normally be granted if an applicant has more than 1 conviction for an insurance related offence.

An operator found guilty of aiding and abetting the driving of passengers for hire and reward whilst there is no insurance in place will normally have their operator licence revoked immediately and be prevented from holding a licence for a period of at least 3 years.

1.18 Licensing Offences

If an applicant has been convicted of offences under the Local Government (Miscellaneous Provisions) Act 1976, the Town Police Clauses Act 1847 or any other relevant licensing legislation, there must be a period of 3 years' free of conviction before an application will be considered.

An applicant with more than 1 conviction for offences committed under licensing legislation will not be considered fit and proper to hold a private hire / hackney carriage driver licence, unless exceptional circumstances exist.

1.19 Cautions

Cautions are included under the definition of 'convictions' and will therefore be taken into consideration. Although these are generally not as serious as convictions, they can give some indication as to an applicant's character and whether they are a 'fit and proper' to hold or be granted a licence. The Licensing Officer will be mindful that a caution is given where there is sufficient evidence for a prosecution. A caution can only be given following the admission guilt.

Every case will be considered on its own merits including the details and nature of the offence.

Penalty notices are similar to fixed penalties, but are issued for a wide range of offences that are of an anti-social nature, such as behaviour likely to cause harassment, alarm or distress to others, drunk and disorderly behaviour in a public place, destroying or damaging property up to the value of £500, retail theft under £200, sale of alcohol to a person under 18 years of age, selling alcohol to a drunken person or using threatening words or behaviour. The nature of the offence will be considered when making a decision on an application.

1.20 Non Conviction Information

If an applicant has, on more than one occasion, been arrested or charged, but not convicted for an offence or is subject to an ASBO or similar order, which suggests he/she may not be a fit and proper person, or if there is other evidence to suggest the applicant may not be a fit and proper person, consideration will be given to refuse the application.

Failing to declare convictions on the application form will result in the refusal to grant a hackney carriage / private hire driver licence. At least 1 year must elapse from the date of receipt of the original application form before a further application will be considered.

As with the rest of this part of the policy, in assessing the action to take, the safety and security of the travelling public will be the paramount concern.

1.21 Suspension/Refusal/Revocation by another Licensing Authority

An applicant who has been suspended/refused/revoked by another Licensing Authority may not be considered "fit and proper" for a period of at least 3 years from the date of the suspension/refusal/revocation. This period may be extended depending on the circumstances of the revocation.

The Licensing Authority shall also have a right to make enquiries to that other authority.

Applicants who already hold a licence with another licensing authority should not automatically assume that their application will be granted by another. Each case will be decided on its own merits.

Licence holders who are licensed by multiple authorities are expected to inform all such authorities of who else they are licensed by and to advise each authority of any changes in this respect. Applicants should expect those authorities to share information regarding their conduct and to take it into account as appropriate.

1.22 Convictions once a licence has been granted

If a licence holder's conduct is such that, if they were to be applying for a new licence their application would be refused, they should expect consideration to be given as to the suspension or revocation of their licence.

The suspension or revocation of a hackney carriage or private hire driver licence takes effect at the end of the period of 14 days beginning on the day on which notice is given to the driver. If however, the suspension or revocation is in the interest of public safety the suspension or revocation will come into force with immediate effect. A notice will be given to the driver including a statement and explanation as to why the licence is suspended or revoked and when it takes effect.

A suspension or revocation of a private hire operator licence will take effect at the end of the period of 14 days beginning with the day on which notice is given to the operator.

2.0 REHABILITATION PERIODS

The rehabilitation period (the length of time before a caution or conviction becomes spent) is determined by the type of disposal administered or the length of the sentence imposed. Rehabilitation periods that run beyond the end of a sentence are made up of the total sentence length plus an additional period that runs from the end of the

sentence, which is called the 'buffer period'. Other rehabilitation periods start from the date of conviction or the date the penalty was imposed. The 'buffer periods' are halved for those who are under 18 at date of conviction (save for custodial sentences of six months or less where the 'buffer period' is 18 months).

The rehabilitation periods for sentences with additional "buffer periods" which run from the end date of the sentence are shown in the table below:

| Sentence/disposal | Buffer period for adults (18 and over at the time of conviction or the time the disposal is administered). This applies from the end date of the sentence (including the licence period). | Buffer period for young people (under 18 at the time of conviction or the time the disposal is administered). This applies from the end date of the sentence (including the licence period). |
|---|---|--|
| Custodial sentence* of over 4 years, or a public protection sentence | Never spent | Never spent |
| Custodial sentence of over 30 months (2 ½ years) and up to and including 48 months (4 years) | 7 years | 3½ years |
| Custodial sentence of over 6 months and up to and including 30 months (2 ½ years) | 4 years | 2 years |
| Custodial sentence of 6 months or less | 2 years | 18 months |
| Community order or youth rehabilitation order** | 1 year | 6 months |

*Custodial sentence includes a sentence of imprisonment (both an immediate custodial sentence and a suspended sentence), a sentence of detention in a young offender institution, a sentence of detention under section 91 of the Powers of Criminal Courts (Sentencing) Act 2000, a detention and training order, a sentence of youth custody, a sentence of corrective training and a sentence of Borstal training.

**In relation to any community or youth rehabilitation order which has no specified end date, the rehabilitation period is 2 years from the date of conviction.

The following table sets out the rehabilitation period for sentences which do not have "buffer periods" and for which the rehabilitation period runs from the date of conviction:

| | | |
|---|--|---|
| Sentence/disposal | Rehabilitation period for adults (18 and over at the time of conviction or the time the disposal is administered). | Rehabilitation period for young people (under 18 at the time of conviction or the time the disposal is administered). |
| Fine | 1 Year | 6 months |
| Conditional discharge | Period of the order | Period of the order |
| Absolute discharge | None | None |
| Conditional caution and youth conditional caution | 3 months or when the caution ceases to have effect if earlier | 3 months |
| Simple caution, youth caution | Spent immediately | Spent immediately |
| Compensation order* | On the discharge of the order (i.e. when it is paid in full) | On the discharge of the order (i.e. when it is paid in full) |
| Binding over order | Period of the order | Period of the order |
| Attendance centre order | Period of the order | Period of the order |
| Hospital order (with or without a restriction order) | Period of the order | Period of the order |
| Referral order | Not available for adults | Period of the order |
| Reparation order | Not available for adults | None |

*Compensation Orders – it is important that individuals obtain proof of payment from the court and keep this document to prove that the compensation order has been paid in full.

The following sentences are exempt from the 1974 Act and can never become spent:

1. Sentence of imprisonment for life;
2. Sentence of imprisonment, youth custody, detention in a young offender institution or corrective training of over 4 years;
3. Sentence of preventive detention;
4. Sentence of detention during Her Majesty's pleasure or for life;
5. Sentence of custody for life;
6. Public protection sentences (imprisonment for public protection, detention for public protection, extended sentences of imprisonment or detention for public protection and extended determinate sentences for dangerous offenders).

An endorsement for a road traffic offence listed in Schedule 2 to the Road Traffic Offenders Act 1988, imposed either by the court or by means of a fixed penalty notice (FPN) is a sentence for the purposes of the 1974 Act and may become spent after 5 years (or 2½ years where the offender is under 18). Road traffic legislation specifically provides for a FPN in these circumstances to be treated as a conviction and dealt with as such under the 1974 Act. Penalty points and a driving disqualification imposed by the court on conviction may become spent when they

cease to have effect (penalty points have effect for 3 years as set out in road traffic legislation). Where the court imposes more than 1 sentence or penalty for the offence then the longest rehabilitation period determines when the conviction may become spent.