

Policy/Framework for determining the Relevancy of Criminal Convictions

Applications

1. When submitting an application for the grant or renewal of a Street Trading consent, applicants must declare any unspent convictions or cautions they may have, and in addition they must disclose any matters currently under investigation.

Public Safety

2. The Council's key objective is ensuring public safety and protection from criminal activity such as fraud. The policy reflects this overriding concern and although it recognises that employment plays an important part in preventing ex-offenders from reoffending, the very nature of a street trader's job being in a position of trust will, by implication, mean that a pattern of offending/ re-offending or, indeed a single specific offence may render an applicant unfit to hold such a position of trust.
3. Applicants demonstrating either or both of these will not normally be issued a consent by the Council.
4. Before, the Council makes any decision, it will allow an opportunity for the applicant to make comment about any unspent convictions and cautions.
5. The Council may offer some discretion if the offence is isolated and there are mitigating circumstances. This will be based upon the Council establishing the facts surrounding a unique case. Similarly, multiple offences or a series of offences over a period of time are likely to give greater cause for concern and may demonstrate a pattern of inappropriate behaviour which will be taken into account.
6. The Council will in all cases verify the applicant's identity and may require a basic criminal record check to be undertaken. Where the check reveals that the applicant has a record of convictions and/ or cautions and warnings, the Council will consider these carefully on the basis of:-
 - How relevant the offences were to the type of consent applied for
 - The relative gravity of the offences committed and
 - How recent they were
7. The Council will consider all unspent convictions with further attention given to criminal offence involving:-
 - Dishonesty
 - Assault including, Battery, or Grievance Bodily Harm/ Actually Bodily Harm including any conviction of aiding or abetting or incitement for any such offence
 - Drugs including cultivation, sale, supply or the recreational use thereof
 - Sexual offence
8. A basic criminal record check is required upon application and thereafter every three years for relevant consents as indicated in this policy.

9. The Council reserve the right to seek intelligence from all 'appropriate sources'.
10. Applicants with relevant offences (see list below, under heading **Specific Guidance of the Relevance of Convictions**) or are a cause for concern will be referred to the Licensing Sub-Committee for determination.
11. Existing holders of a Street Trading consent will be required to notify the Council, in writing, within five working days of receiving a criminal conviction (including cautions).
12. Any applicant who is refused a Street Trading consent, does not have the right to appeal to a Magistrates Court. If a person is aggrieved against a decision made by a Licensing Sub-Committee, may seek a Judicial Review of the decision of the Licensing Sub-Committee, should it be deemed necessary.
13. A serious view will be taken of any substantiated complaint relating to verbal abuse, violence or aggression towards any member of the public, authorised officers or employee of the Council or Police Officers whilst in the course of their duty.

Specific Guidance of the Relevance of Convictions.

Drugs

14. An isolated conviction for the possession or misuse of drugs need not preclude an applicant from gaining a Street Trading consent, although further consideration of the application should be required, having regard to the circumstances of the offence.
15. However, more than one conviction would usually merit refusal and normally no further application will be entertained until a period of at least 3 years free from conviction has elapsed.

Indecency offences

16. As a Street Trading consent holder, applicants will often be in remote locations at various times. Therefore applicants with convictions for indecent exposure, indecent assault, importuning or any of the more serious sexual offences will be refused until they can show a substantial period (at least 3 to 5 years) free of such offences. More than one conviction of this kind will preclude consideration for at least 5 years. In either case, if a consent is granted a strict warning as to future conduct will be issued.
17. NB- Offences of a serious sexual nature will be considered separately outside the terms of the policy, prior to the granting of any consent.

Violence

18. As a Street Trading consent holder, will have close contact with the public, a firm line will be taken with applicants who have convictions for grievous bodily harm, wounding or assault.
19. At least three years free of such conviction should be shown before an application will be entertained and even then a strict warning as to future conduct will be given.

Dishonesty (including theft)

20. Street Trading consent holders are expected to be a person of trust. It is comparatively easy for a dishonest street trader to defraud the public by demanding more money for goods, etc. Foreign visitors can be confused by the change in currency and become "fair game" for an unscrupulous street trader.
21. For these reasons a serious view will be taken of any convictions involving dishonesty. Normally, a period of three to five years free of conviction will be required before entertaining an application.

Statement on the rehabilitation of offenders

22. Except for the above The Rehabilitation of Offenders Act 1974 and current guidance (<https://www.gov.uk/government/publications/new-guidance-on-the-rehabilitation-of-offenders-act-1974>) shall apply when determining an application for a consent under this policy to ensure those with minor spent convictions are not excluded from employment or discriminated against.