

**Committee:** Licensing & Environmental Health

**Agenda Item**

**Date:** 5 March 2014

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**Title:** Amendments To The Rehabilitation Of Offenders Act 1974 (“The Act”)

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Item for decision

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## Summary

1. This report is to inform members of amendments to the Act which will come into effect on the 10 March 2014.

## Recommendations

2. Members consider whether they wish to revise the licensing standards for drivers in the light of the amendments to the legislation.

## Financial Implications

3. None.

## Background Papers

4. None.

## Impact

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Communication/Consultation	None.
Community Safety	None.
Equalities	None.
Health and Safety	None.
Human Rights/Legal Implications	Under the Act convictions covered by a rehabilitation period are deemed to be spent and in general may not be referred to. This will not impact upon applications for driver’s licences where members may legally take into account spent convictions in determining whether or not a driver may be considered to be a fit and proper person. However, the new schedule of spent convictions will be applicable to other areas of law (e.g. personal licences under the Licensing Act 2003 and scrap metal

	dealers licences under the Scrap Metal Dealers Act 2013).
Sustainability	None.
Ward-specific impacts	None.
Workforce/Workplace	None.

## Situation

6. The Act provides that in certain circumstances where someone has been convicted of an offence, that conviction is deemed to be spent after the passage of a period of time.
7. Some offences would never be deemed to be spent under the Act. Essentially these were where the offender had been sentenced to a term of imprisonment of 30 months or more. The main rehabilitation periods are currently as follows:

Sentence	Rehabilitation Period
Custodial sentence for more than 6 months but not more than 30 months	10 years
Not exceeding 6 months	7 years
Fine	5 years
Community Order (e.g. probation, community service etc)	5 years
Conditional discharge or binding over	1 year or the end of the period of discharge or bind over whichever is the later
Absolute discharge	6 months

8. All of the above mentioned periods of rehabilitation are calculated from the date of conviction.
9. Section 139 Legal Aid Sentencing and Punishment of Offenders Act 2012 contains provisions amending the rehabilitation periods. The provisions are due to take effect on a date to be appointed by the Secretary of State. At the date of preparation of this report, no commencement order had been published but the government had announced its intention that the amendments should take effect with effect from 10 March 2014.
10. The main amendments to the rehabilitation periods are set out below.

11. The length of sentence which can qualify for rehabilitation has been increased from 30 months to 48 months.
12. Rehabilitation periods in respect of custodial sentences will in future commence not from the date of conviction but from the date of completion of the sentence. Where a prisoner is released early having been given remission for good behaviour, the release date is the date of completion of sentence. Where however, a prisoner is released early on licence, the sentence is not deemed to be completed until the end of the licence period.
13. The main periods of rehabilitation will be as follows:

<b>Sentence</b>	<b>Rehabilitation Period</b>
Custodial sentence for more than 30 months but not more than 48 months	7 years
Not more than 6 months but not more than 30 months	48 months
6 months or less	24 months
A fine	12 months from date of conviction
A compensation order	The date upon which payment is made in full
A community order	12 months from the last date on which the order was to have effect
Conditional discharge	12 months
Conditional caution	3 months or sooner if the caution ceases to have effect
Absolute discharge or caution	The date of the discharge or caution

14. Members will note the significant reduction in the period for rehabilitation for fines and community punishments from 5 years to 12 months from date of conviction. Many offences are dealt with by way of fine or community punishment including offences involving dishonesty, indecency or violence (all of which are expressly recognised as being a ground for revocation of a driver's licence under the 1976 Act). The Council's Licensing Policy Relating to the Hackney Carriage and Private Hire Trades states that drivers would not normally be considered to be fit and proper persons if they have unspent convictions. That policy was adopted in the light of the law as it stood at the time of adoption set out at paragraph 7 above. Members may wish to consider whether they would be happy licensing individuals with convictions for offences which are just over 12 months old which were dealt with by way of a fine or community punishment.

15. If Members wish to review their policy with regard to spent convictions Members may consider it appropriate to appoint a task group to look at the situation. Any policy to have regard to spent convictions as a matter of course would require justification

### Risk Analysis

Risk	Likelihood	Impact	Mitigating actions
A person who is not considered fit and proper is allowed to retain his or her licence.	3, where a driver has a recent but spent conviction for certain types of offence this may put the public at risk	4, licensing unsuitable drivers may lead to damage to property, personal injury or even death.	Members consider whether to revise licensing standards to take account of spent convictions in certain circumstances.