



12 March 2024

s.9(2)(a) OIA

IR-01-24-5679

I am writing to you in response to your Official Information Act 1982 (OIA) request dated 18 February 2024. You asked for:

1. *What guidance is there for assessors to determine if driving charges are serious enough to be considered relevant to the continued holding of a firearm licence?*

While there is no specific guidance to driving charges in relation to a person's eligibility to hold a firearms licence, the assessment of all applicants is aligned to the purpose and principles of section 1A¹ of the Arms Act 1983 (the Act).

Section 24² of the Act requires that an applicant must be a "fit and proper" person to be in possession of a firearm or an airgun. The grounds for firearms licence revocation or suspension pending revocation under sections 27 and 60A of the Act³ include where the licence holder is not a fit and proper person to be in possession of a firearm or airgun.

From 24 December 2020, a new section 24A⁴ of the Act provided more detailed statutory guidance on circumstances relevant to whether a person is fit and proper to possess firearms or

¹ Purposes of this Act

(1) The purposes of this Act are to—

- (a) promote the safe possession and use of firearms and other weapons; and
- (b) impose controls on the possession and use of firearms and other weapons.

(2) The regulatory regime established by this Act to achieve those purposes reflects the following principles:

- (a) that the possession and use of arms is a privilege; and
- (b) that persons authorised to import, manufacture, supply, sell, possess, or use arms have a responsibility to act in the interests of personal and public safety.

Section 1A: inserted, on 25 June 2020, by section 5 of the Arms Legislation Act 2020 (2020 No 23).

² Issue of firearms licence

(1) Subject to subsection (2), a firearms licence must be issued by a member of the Police to an applicant if the member of the Police is satisfied that—


- (a) the applicant—
 - (i) is of or over the age of 16 years; and
 - (ii) is a fit and proper person to be in possession of a firearm or an airgun;

³ <https://www.legislation.govt.nz/act/public/1983/0044/latest/whole.html#LMS440344>

⁴ 24A Fit and proper person to possess firearm or airgun

(1)

For the purposes of this Act, a member of the Police may find a person is not a fit and proper person to be in possession of a firearm or an airgun if the member of the Police is satisfied that 1 or more of the following circumstances exist:



airguns. These factors are relevant considerations when assessing whether a person is or remains a fit and proper person to possess firearms or airguns. They are not an exclusive list – section 24A(2)(c)⁵ makes it clear that Police may take into account any other relevant matters considered appropriate.

The assessment of a person's fit and proper status requires consideration under a two-stage process:

1. is a firearms licence holder involved in specific behaviours, offending or circumstances defined in s24A(1)(a)-(n) or 24A(2) or as considered relevant, and then
2. the severity and recency of the circumstance(s) (specific behaviours, offending listed above) individually at first, and then collectively when considered overall. One significant matter may suffice, or more less significant matters. This includes all other matters deemed relevant (see 8. Threshold for consideration of revocation).

The factors for consideration for assessment as a fit and proper person include the extent of harm or risk of harm, including the danger of self-harm or harm to others. Actions that create risks but do not actually lead to harm occurring can still be serious and require a firm response.

Assessment of harm or the risk of harm includes the following factors:

- minimal or no harm or risk of harm
- harm is, or would likely be, easily mitigated
- significant or widespread harm or potential for such harm
- harm is actually or potentially caused to members of the community.

Conduct in this context means the behaviours, intent and capability of the licence holder whose actions are being considered.

Assessment of conduct includes the following factors:

- it is first-time or one-off behaviour that is less serious or unlikely to be repeated
- the conduct is accidental or resulted from momentary carelessness or the result of a limited understanding of the law (where that is not inconsistent with the expectations of someone holding a firearms licence)
- mitigating factors exist
- the behaviour is deliberate, more serious, repeated, reckless or involving consistent carelessness or involving disregard for New Zealand legislation
- aggravating factors exist.


Public interest can be described as something being in the interest of the wider public or of public importance. Considerations include whether the event reflects a widespread problem that can be usefully addressed by highlighting the need for compliance.

Assessment of public interest includes the following factors:

- the conduct occurred some time ago and has ceased
- a decision not to act would undermine public confidence in Police as a regulatory authority
- enforcement action is necessary to deter others from similar conduct.

Each case will have its own set of specific and unique circumstances, meaning that the decision maker will need to identify the relevant factors applicable on a case-by-case basis.

⁵ In determining whether, for the purposes of this Act, a person is a fit and proper person to be in possession of a firearm or an airgun, the member of the Police may take into account: [...]
(c) any other relevant matters the member of the Police considers appropriate.



The final consideration in the fit and proper assessment requires Police to review the totality of the specific behaviour / offending by the licence holder, in the context of the aims of the Act, in order to reach a fair and justifiable decision.

Conversely, there will also be instances where Police's decision will be based on the totality of the specific behaviour / offending, where the licence holder does not meet the threshold for consideration of revocation, and remains, however marginally or otherwise, a fit and proper person to possess a firearm or airgun. Police may instead issue a warning letter to the licence holder setting the relevant facts and corresponding legislative grounds under section 24A that may affect the licence holder's fit and proper status and the consequence of potential revocation of the firearms licence for any subsequent offending/behaviour.

2. How often have driving charges been considered relevant to the holding of firearm licences, per year, from 2019?

On 21 February 2024, Te Tari Pūreke emailed you to explain that the data for question two is not captured in a reportable format and could be refused under section 18(f) of the OIA, as the information requested cannot be made available without substantial collation and research.

However, we could provide the number of current firearms licence holders who have had a previous traffic offence, and to provide you with a break-down of that number to include traffic offence information within the timeframe you have requested (from 2019). Thank you for your reply advising that was an acceptable clarification.

The answer to your clarified question follows.

Active firearms licence holders are those individuals who are legally allowed to possess firearms due to holding a current firearms licence. This includes licences in the status of: Current, Renewal in progress (that is, the issue of a new firearms licence to a person who has previously held a licence), Suspension or revocation in progress, and Considering revocation - No Suspension. It also includes licences that have expired but the licence holder has applied to renew their licence before expiry. The measure excludes deceased licence holders, expired licences (unless an application for renewal was received before expiry and is in progress), pending, suspended, cancelled, surrendered, refused, revoked, and visitor licences.

As at 25 February 2024, there were 2,660 active firearms licence holders who have a conviction for any traffic offence where the final court outcome was between 1 January 2019 and 31 January 2024. The table below shows the number of individuals by year of the final court outcome. Note that the same person could be convicted in multiple years, so the sum of rows may be greater than the unique total provided.

Importantly, no inference can be made about these convictions as to their subsequent impact on a licence holder's status, that is, their continuing to be considered fit and proper to be in possession of a firearm.

Table 1. Active firearms licence holders (as at 25 February 2024) who have been convicted of a traffic offence between 1 January 2019 and 31 January 2024


Conviction Calendar Year	Active firearms licence holders
2019	620
2020	497
2021	527
2022	505
2023	556
2024 (to 31 January)	39
Unique Total	2,660

The table below shows number of unique traffic offences that are convicted by year. Note that the same person could be convicted in multiple years and of multiple traffic offence groups, so the sum of rows or columns may be greater than the unique total provided.

Table 2. Active firearms licence holders (as at 25 February 2024) who have been convicted of a traffic offence between 1 January 2019 and 31 January 2024 broken down by traffic offences and year

Traffic Offence	2019	2020	2021	2022	2023	2024	Unique people
Dangerous or Negligent Operation (Driving) of a Vehicle	142	108	93	69	79	5	492
Drive While Licence Disqualified or Suspended	15	12	8	6	6	0	47
Drive Without a Licence	2	0	0	1	0	0	3
Driver Licence Offences, N.E.C	20	12	10	18	14	0	73
Driving Causing Death	5	0	4	2	2	0	13
Driving Under the Influence of Alcohol or Other Substance	6	3	2	4	3	0	18
Exceed Legal Speed Limit	27	31	25	18	12	1	114
Exceeding the Prescribed Content of Alcohol or Other Substance Limit	445	351	412	404	451	30	2,050
Regulatory Driving Offences, N.E.C	28	22	10	13	14	3	88
Resist or Hinder Police Officer or Justice Official	4	6	9	4	8	0	31
Resist/Hinder Govt Official (Excl. Police Officer, Justice Official, Govt Sec Officer)	0	0	0	1	1	1	3
Transport Regulation Offences	1	0	0	0	0	0	1
People Unique Total	620	497	527	505	556	39	2,660

Data in this response is drawn from a dynamic operational database and is subject to change as new information is recorded or updated.



For your information, Police has developed a process for proactive release of information, so the anonymised response to your request may be publicly released on the New Zealand Police website.

Nāku noa, nā



Richard Wilson

Superintendent

Director Operations

Firearms Safety Authority