

Herefordshire Council Hackney Carriage and Private Hire Policy

1. Definitions

Applicant

Person or business who has submitted an application for either a grant or renewal of a licence.

Application

A completed application made by an individual (or individuals) for the grant or renewal of a licence.

Assistance Dog

1. a dog which has been trained to guide a blind/partially sighted person;
2. a dog which has been trained to assist a deaf/partially deaf person;
3. a dog which has been trained to assist a disabled person who has a disability that consists of epilepsy or otherwise affects the person's mobility, manual dexterity, physical co-ordination or ability to lift, carry or otherwise move everyday objects;

Authorised Council Officer

A Council officer who is authorised by the Council to exercise powers and duties conferred by legislation.

Badge

Issued to all licensed drivers and must be worn at all times when working as a licensed driver.

Best Practice Guidance

DfT guidance: 'Taxi and Private Hire Vehicle Licensing: Best Practice Guidance' available at <https://www.gov.uk/government/publications/taxi-and-private-hire-vehicle-licensing-best-practice-guidance>). This dates from 2010 and at the time of drafting this policy, is expected to be updated.

Byelaws

Locally adopted laws applicable to Hackney Carriages and drivers. A breach of a byelaw is a criminal offence.

Committee

The Licensing taxi Sub Committee to be constituted by the Council to consider taxi licensing matters and until that time, the Taxi Panel which is represented by

officers and which determines taxi licensing matters as set out in the Council constitution.

Conditions

Conditions of licence applied by the Council to a driver licence, an operator licence or a vehicle licence. Non-compliance will lead to penalty points being imposed or action against the licence

Controlled District Boundary

Area of a local authority which has adopted the provisions of the Local Government (Miscellaneous Provisions) Act 1976. This is the area of the County of Herefordshire District Council.

Conventional partnership

An arrangement where 2 or more people are in business together, but which is not a Limited Liability Partnership.

Council

The County of Herefordshire District Council.

Councillor

A councillor who is a member of the County of Herefordshire District Council.

County

The area of the county of Herefordshire, covered by the County of Herefordshire District Council.

Date of First Registration The date of first registration on the vehicles V5 log book issued by DVLA.

DBS

Disclosure & Barring Service.

Dft

Department for Transport.

District

This is the terminology used in the Local Government (Miscellaneous Provisions) Act 1976 to refer to the area of the Council. As the County of Herefordshire District Council is a unitary authority, it is the area of Herefordshire.

Door Signage

Council approved self-adhesive door signage which must be affixed to the front doors of all licenced vehicles.

Driving licence

Full UK driving licence issued by DVLA, Northern Ireland driving licence, EEA driving licence or exchangeable driving licence as defined in section 108 of the Road Traffic Act 1988.

DVLA

Driver and Vehicle Licensing Agency.

DVSA

Driver and Vehicle Standards Agency (which replaced VOSA in 2014).

Equality Act

Equality Act 2010.

Fare Card

A card which must legally be displayed in Hackney Carriage Vehicles that are fitted with a taximeter which indicates the maximum authorised fare to be charged for distance travelled, waiting time and additional charges determined by the Council under section 65 of the Local Government (Miscellaneous Provisions) Act 1976 and the licence plate number. This is issued by the Council.

Guidance

Guidance published or issued by the Government via DfT or any other government department.

Hackney Carriage Vehicle

A vehicle licensed under the Town Police Clauses Act 1847 often referred to as a taxi.

Hirer

Any person or persons who from time-to-time hires or books the vehicle

ICO

Information Commissioner's Office.

IoL

Institute of Licensing.

LGA

Local Government Association.

Legislation

Acts of Parliament, secondary legislation and decisions of the senior courts, Supreme Court, European Court of Justice and European Court of Human Rights.

Licensing Authority

The licensing function within the Council.

Licensed Driver

A driver licensed under the Town Police Clauses Act 1847 to drive a Hackney Carriage Vehicle and under the Local Government (Miscellaneous Provisions) Act 1976 to drive a Private Hire Vehicle.

Licensed Operator

A person, persons or company holding a licence to operate private hire vehicles issued pursuant to section 55 of the Local Government (Miscellaneous Provisions) Act 1976. A private hire operator licence is required to enable a person to accept or invite bookings for private hire vehicles.

Licensed Vehicle

A Hackney Carriage Vehicle or a Private Hire Vehicle licensed by the Council.

Licensee(s)

The person(s) or company/firm named in the licence.

Licence Plate

The plate that licensed vehicles must display showing the licence number, maximum number of persons to be carried, expiry date, vehicle registration number, and make and colour of vehicle.

Licensed Vehicle

Vehicle licensed under Town Police Clauses Act 1847 as a Hackney Carriage Vehicle or licensed under the Local Government (Miscellaneous Provisions) Act 1976 as a Private Hire Vehicle.

Limited Company

A company registered with Companies House.

Limited Liability Partnership

An incorporated partnership registered with Companies House.

Member

See councillor. The terms “councillor” and “member” are effectively interchangeable.

NR3

A database of refusals and revocations for driver licences.

Officer

An employee of the Council or another individual acting in the same capacity as an employee e.g. an independent contractor.

Operator

See licensed operator.

Policy

This policy document and all associated documents.

Private Hire Vehicle

A vehicle licensed by the Council under the section 48 of the Local Government (Miscellaneous Provisions) Act 1976.

Proprietor

Registered owner or part owner of a vehicle.

PSV

Public Service Vehicle.

Road Traffic Acts

Road Traffic Act 1988 and all associated legislation.

Statutory Standards

DfT's supplementary guidance: 'Statutory taxi and private hire vehicle standards' available at <https://www.gov.uk/government/publications/statutory-taxi-and-private-hire-vehicle-standards>. This dates from 2020.

Stretched Limousine

Any vehicle that has been modified after manufacture with an additional body section, extending the vehicle length.

Taximeter

Device used for calculating the fare to be charged for the journey by measuring distance travelled plus any time waiting. This must be fitted in all Hackney Carriage Vehicles and may be fitted in Private Hire Vehicles.

The 1847 Act

The Town Police Clauses Act 1847 and the provisions within.

The 1976 Act

The Local Government (Miscellaneous Provisions) Act 1976 and the provisions within.

WAV

Wheelchair Accessible Vehicle. Certain Hackney Carriage and Private Hire Vehicles that are suitable for carrying wheelchair-bound passengers.

Working day

Any day other than a Saturday, a Sunday, Christmas day, Good Friday or a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in any part of the United Kingdom.

Working hours

Office hours 9am – 5pm Monday to Friday

2. Introduction

- 2.1. This policy has been published and adopted by the Council to inform and assist the discharge of its functions in relation to hackney carriage and private hire licensing under the powers and duties contained in the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976 and all associated and related legislation. This includes byelaws in relation to Hackney Carriage Vehicles. The Council is responsible for the licensing of Hackney Carriage and Private Hire Vehicles, drivers and operators.
- 2.2. In common with all other Council documentation, this policy is written in plain English, as far as possible. Where technical terms are used they will be explained clearly, and there is a list of definitions at the beginning. Any reference to external material (legislation, guidance, court decisions etc.) will be clear and should be easily accessible.
- 2.3. This policy has been drawn up with reference to Council's County Plan 2020 – 2024:
- Environment - Protect and enhance our environment and keep Herefordshire a great place to live;
 - Community - Strengthen communities to ensure everyone lives well and safely together;
 - Economy - Support an economy which builds on the county's strengths and resources.
- 2.4. This policy will be kept under review and revised as necessary. The Head of Public protection is authorised to make minor amendments to the policy. In addition, amendments to this policy may be authorised by the Council without consultation.
- 2.5. In carrying out these functions, the Council will comply with the law and also have regard to this policy document and any relevant guidance published by DfT and/or any other government department. In any situation where the Council departs from this policy, clear reasons will be given for doing so. In any case where a situation or matter is not covered by this policy, the matter will be considered from first principles i.e. as if this policy did not exist, and the decision will be based on the Councils' interpretation of the law and Guidance.

- 2.6. The DFT Statutory Standards guidance requires the Council to review all existing hackney carriage and private hire licences (drivers, vehicles and operators) in the light of this new revised policy and the council will undertake that.
- 2.7. The Council is committed to ensuring that members and officers involved in hackney carriage and private hire licensing are fully trained, and such training is regularly updated.
- 2.8. This policy contains “bright lines”. These are firm statements of intent which may appear to be absolute. Such statements are lawful and allow the Council to provide robust guidance to itself, applicants, licensees and citizens on the approach that will be taken. They do not fetter the discretion of the Council because each case will be considered on its merits but in the light of this policy.
- 2.9. The Council will consider all new and renewal applications in the light of this policy. There will be situations where a licence was granted under a previous policy, and this policy may differ from the previous policy, in these circumstances a period for compliance will be specified in the relevant conditions. In those circumstances the fact that a licence was granted previously will be a factor that will be taken into account when the Council consider an application to renew. There is no legitimate expectation that any hackney carriage or private hire licence will be renewed¹. If a licence is not renewed written details will contain the reasons for the refusal in order that the applicant may appeal the decision.
- 2.10. Hackney carriage and private hire law is long overdue for wholesale revision, but the government has indicated that at present it has no intentions of embarking on that task, although some limited developments have been announced. As and when these become law the policy will be amended to take account of their effects. In recent years there have been a number of minor amendments to the legislation, and other legislation that impacts upon hackney carriage and private hire licensing.
- 2.11. The Deregulation Act 2015 introduced some amendments to the 1976 Act, the most significant of which was the ability for a private hire operator to subcontract to another private hire operator licensed anywhere in England, Wales, Scotland or Greater London.

¹ See R. (on the application of Wilcock) v Lancaster City Council [2014] L.L.R. 388 CA

- 2.12. The introduction in 2016 of more of the provisions relating to Hackney Carriages and Private Hire Vehicles contained within the Equality Act has improved the access to and use of these vehicles for those with disabilities, and the Council works actively to support both those who require and provide such transport.
- 2.13. The policy refers to guidance that is available to applicants, drivers, operators and proprietors to assist them with the application processes and the running of their business under their licence. This guidance, application forms and current fees are available on the Council's Website.
- 2.14. Council staff involved in hackney carriage and private hire licensing and other associated functions will always be polite, courteous, civil and professional. The same standards of behaviour are expected from applicants and licensees and the Council has a policy of zero tolerance to any abuse, bullying, violence or similar behaviour towards staff or councillors. Any such behaviour on the part of an applicant or licensee will be taken into account of the 'fit & proper test' when considering if a licence should be granted, or whether action should be taken against any existing licensee.
- 2.15. The Council recognises its duties and responsibilities under the Data Protection Act 2018 and the UK General Data Protection Regulation (EU 2016/679). Full details of the privacy policy are detailed on the Council's website.
- 2.16. Any legislation is pointless without enforcement of its provisions, and in doing so the Council will have regard to its enforcement policy.

3. Council Service Standards

- 3.1. Subject to unforeseen circumstances beyond the control of the Council, the Council will endeavour to maintain the following service levels.
- 3.2. Licensees and applicants should be able to contact the licensing team by email, through the website, or by phone. In exceptional circumstances or for matters of a confidential nature appointments can be made to attend a Council office where you can be seen in person.
- 3.3. The Licensing Section can be contacted by phone on 01432 261761 between the following times, 09:30 to 16:00 on Mondays to Fridays. They can also be contacted by email at: taxi-licensing@herefordshire.gov.uk.

The call handler will take your call and send the contact to the licensing office who will contact you within 5 working days.

- 3.4. The Council will always aim to issue a licence within 5 days from receipt of a valid application, but will always attempt to issue them more quickly. In order to issue a licence, the application must include all required information, if anything is missing a licence cannot be issued.
- 3.5. If you have any concerns or complaints about the service you have received, please contact the Licensing Section on 01432 261761 or by email at taxi-licensing@herefordshire.gov.uk. If you are still not satisfied, please use the Council complaints procedure, details of which can be found [here](#).

4. Background

- 4.1. Hackney Carriage and Private Hire Vehicles have an important role to play in the transport system. They are able to provide services in situations where public transport is either not available (for example in rural areas, or outside "normal" hours of operation such as in the evenings or on Sundays), and/or for those with mobility difficulties.

5. Practice, guidance & legislation

- 5.1. DfT has national responsibility for hackney carriage and private hire legislation and the policy for this in England. They also provide guidance for local licensing authorities. Their principal document is the Best Practice Guidance supplemented by the Statutory Standards and this has been taken into account in preparing this policy. Additional and revised guidance is anticipated and this policy may require amendments in the light of that.
- 5.2. The DfT guidance recognises and emphasises that licensing authorities can reach their own decisions both on overall policies and on individual licensing matters, in the light of their own circumstances.
- 5.3. This policy takes account of the law which forms the basis of the Council's taxi licensing functions. The principal pieces of legislation are the 1847 Act and the 1976 Act both as amended. In addition the senior courts (High Court and Court of Appeal) have handed down judgments which explain and interpret this legislation.

6. Purpose of Hackney Carriage & Private Hire Licensing

- 6.1. The sole consideration in relation to the licensing of Hackney Carriage and Private Hire Vehicles is public safety². Public safety includes the safety of drivers, operators, vehicle proprietors and their staff as well as the users of Hackney Carriage and Private Hire Vehicles, and the wider public. The public must have confidence in the safety of Hackney Carriage and Private Hire Vehicles as a form of transport and as a consequence the highest standards will be expected from all applicants and licensees.
- 6.2. Public safety includes safeguarding which also includes prevention of child sexual abuse and exploitation. All licensees will be expected to demonstrate an understanding of public safety and safeguarding and ensure that their actions do not infringe those requirements at any time. There is a mandatory requirement to undertake Herefordshire Council safeguarding training prior to a licence being issued and details will be given during the application process. Any member of the public, licensee, officer or member who becomes aware of any safeguarding issues, or any other criminal behaviour related to hackney carriage and private hire licensing should inform the Council.

7. Policy objectives & aims

- 7.1. As already stated, this policy is intended to enable the Council to provide a robust licensing regime which enables the hackney carriage and private hire trades to provide the best possible service to the public with the overriding aim of maintaining and improving public safety.

8. Objectives

- 8.1. The objectives of this policy are:
- a) the protection of the public;
 - b) the maintenance and development of professional and respected hackney carriage and private hire trades;
 - c) enabling access to an efficient and effective local transport service;
 - d) the protection of our local environment;

² See DfT Best Practice Guide Para 8 and Statutory Standards Para 3.2

- e) to support all hackney carriage and private hire businesses by ensuring a consistent and fair approach.

9. Aims

9.1. The Council will aim to achieve these objectives in the following ways:

- a) by ensuring that licensed drivers are fit and proper persons and achieve and maintain the highest standards of professional practice;
- b) by ensuring that licensed vehicles are safe for passengers, drivers and other road users, and properly insured;
- c) by ensuring that licensed vehicles comply with all Council standards at all times;
- d) by checking all documents provided as part of an application for authenticity, including contacting the maker of the document and other tests;
- e) by specifying emissions standards and encouraging the use of low polluting vehicles;
- f) by encouraging the use of more vehicles that are accessible to disabled people;
- g) by ensuring that licensed vehicles are comfortable;
- h) by working across the Council to ensure that Hackney Carriage and Private Hire Vehicles form part of wider strategic transport and local transport plans;
- i) by working in partnership with a variety of other agencies to support the Council's objective in relation to both the public and the trade;
- j) by reducing the frequency with which licensees are required to attend the Council's offices;
- k) by ensuring online accessibility to allow remote application by new and existing licensees, so far as is permissible under the legislation;
- l) by utilising electronic and mobile communication methods including the use of SMS messaging and other technological methods including web sites.

10. Methods

10.1. The methods the Council will use to achieve this will include (but this is not an exhaustive list):

- a) working with the hackney carriage and private hire trades to deliver continuing improvements, encourage innovation, and deal with emerging issues;
- b) setting the standards for the licensing of vehicles, drivers and operators;
- c) use of the NR 3 database (The National Register of Refusals and Revocations);
- d) assessing knowledge of the County, highway code and licensing policy (at the time of application);
- e) annual licensing and routine inspection of vehicles, with appropriate follow-up action including enforcement;
- f) routine inspection of documents, with appropriate follow-up action including enforcement;
- g) routine checks of driver's medical fitness and criminal record history during the time the licence is in force;
- h) timely investigation of complaints with appropriate follow-up action;
- i) liaison with West Mercia Police and other constabularies as required, neighbouring local authorities and other agencies concerning issues of concern relating to public safety;
- j) robust enforcement (taking account of the Regulators' Code) including, monitoring of contraventions, suspension or revocation of licences for breach of conditions or legislation and prosecution;
- k) regular training and development of Council officers and members;
- l) meeting continuing performance and efficiency targets for the service;
- m) provision of information to licensees about good practice and what to expect from any inspection or assessment;
- n) provision of mandatory training (not necessarily at no cost) for applicants and licensees when considered necessary;
- o) promotion of training courses and information for licensees;
- p) promotional activities to inform and encourage and maintain high standards.

10.2. To achieve this the Council will actively cooperate with, assist and provide and obtain advice from a wide range of agencies including (but not limited to):

- a) The Police and other constabularies including British Transport Police;

- b) DVSA;
- c) Other local authorities;
- d) Town and Parish Councils;
- e) National Rail and other railway companies;
- f) Disclosure and Barring Service;
- g) DfT;
- h) DVLA;
- i) Home Office;
- j) Department for Work and Pensions;
- k) Other relevant agencies and departments;
- l) Hackney carriage/private hire trades (as appropriate).

11. Uniformity

- 11.1. The Council will conduct its functions in relation to hackney carriage and private hire licensing in a consistent and uniform manner and will take a reasonable and proportionate approach to enforcement action.

12. Applications and licences

- 12.1. Hackney carriage and private hire licences can be granted for a maximum period of time. Those maximum periods are:

- a) Hackney Carriage Vehicle - 1 year;
- b) Private Hire Vehicle - 1 year;
- c) Hackney Carriage and Private Hire Driver (dual) driver - 3 years;
- d) Private Hire operator - 5 years.

and in general licences of those durations will be granted.

- 12.2. The Council will issue dual or combined driver licences. This will constitute a licence to drive both a Hackney Carriage and a Private Hire Vehicle.

- 12.3. Applicants for licences must submit a complete application. A complete application means that the application form has been properly completed, with all required information provided, all supporting documentation that is required has been submitted, and the fee has been paid.

- 12.4. If a grant application is made which is not complete, the applicant will be contacted and given an opportunity to rectify the problems. Any such application will be held on file for 3 months during which time additional and/or updated information can be provided to enable the application to proceed. After 3 months a new application would need to be made in its entirety.
- 12.5. Applications for renewals of licences must be received before the expiry of the current licence. Any application received after that date will be treated as a new application. This will extinguish any acquired rights and the applicant will have to comply with all requirements for a new licence.
- 12.6. As part of the application process, applicants will have to attend certain appointments. If the date and time provided is inconvenient, the applicant should contact the Council as soon as possible to arrange an alternative date and time. Failure to attend an appointment without having notified the Council, Test Centre or Hoople with at least 24 working hours notice in advance will lead to the entire application being cancelled and a fresh application will have to be commenced.
- 12.7. The Council will aim to issue a licence within 5 days of a completed application being received, but this may be delayed due to circumstances beyond the control of the Council. Where an application has to be considered by the Committee/Panel this will extend this timescale.
- 12.8. Licensees must ensure that they notify the Council within 48 working hours of any change of address, change of name, or alterations to means of contact (change of telephone numbers or email addresses). Failure to do this may lead to important communications not being received which in turn may lead to licences expiring or action being taken against licences without the knowledge of the licensee. Any notice required to be served by the Council under this licence or under any statutory provision shall be deemed to have been properly served if sent by pre-paid post to, or left at the last known address of, the licensee.
- 12.9. All information held on files and databases about an applicant is confidential, under the Data Protection Act 2018 and the UK General Data Protection Regulation (EU 2016/679). However, this information can be used ("processed") by the Council as part of the application process and used within the Council. This will include communicating information to relevant officers and members who are involved in any decision-making process. In

addition, the Council is under a duty to protect the public and to protect the public funds it administers, and may use any information provided by an applicant for this purpose. This may include sharing this information with other agencies where that is lawful.

- 12.10. The legislation requires the Council to maintain public registers, which will be available for inspection at the Council's offices. That duty overrides any data protection protections.
- 12.11. Full details of the Council's privacy policy can be found [here](#).
- 12.12. It is a privilege to hold a hackney carriage or private hire licence and licensees have responsibilities to their passengers (drivers) and customers (drivers, operators and proprietors), other road users (drivers and vehicle proprietors) and the public generally. The requirement to satisfy the Council that the applicant is a fit and proper person continues throughout the duration of the licence. If at any time a licensee falls below the standards expected of a new applicant, the Council will consider taking action against that licence. This could be suspension, revocation or refusal to renew that licence.
- 12.13. Licensees must be aware of this and be familiar with the requirements placed upon them by the legislation, the conditions of their licence and this policy.

13. Fees for Licences

- 13.1. The Council can charge a fee for each of these licences. Those fees are calculated in accordance with the legislation, and there are 2 fee levying powers, depending on the particular licence in question.
- 13.2. Section 53 of the 1976 Act covers driver licences, and section 70 covers Private Hire and Hackney Carriage Vehicle licences, and private hire operator licences.
- 13.3. Fees are calculated on a cost recovery basis, in accordance with the Council's corporate policy on such matters.
- 13.4. The costs include the costs of:
- a) processing applications;
 - b) issuing licences;

- c) providing badges and vehicle plates (as required);
- d) providing additional vehicle signage; and
- e) ensuring compliance with the requirements of the licence.

13.5. Additional costs will apply to various pre-application requirements. The requirements are detailed in the fee section of the web-site and these include situations where refunds may be due.

13.6. All licence fees must be paid by credit/debit card on application / when the decision to grant the licence has been made.

13.7. If a licence is surrendered, revoked or suspended, no refund of the licence fee will be made.

14. Appeals

14.1. There are statutory rights of appeal contained within the legislation. These are against decisions to refuse an application, refuse to renew a licence, suspension or revocation of a licence and also against any conditions that the Council has attached to a licence. The rights will be detailed on any decision notice which is issued where there is such a right of appeal.

14.2. In almost every case the right of appeal is to the local magistrates' court and contact should therefore be made with that court for details on how the appeal is commenced. The one exception to that is a refusal to grant a new hackney carriage proprietor licence where the right of appeal is directly to the Crown Court. Again, in those circumstances contact should be made with the court for details on how the appeal is commenced.

14.3. The appeal period is 21 days from the date on which the written notice of the Council's decision was received. That period cannot be extended so anybody who is considering appealing should ensure that the appeal is lodged with the court as soon as possible.

14.4. Such appeals are fresh hearings with the court in the position that the Council was, and the court will reconsider the decision. In such appeals, the Council will invariably resist the appeal as they have already made a decision on the matter. As part of the appeal, the court will take account of the decision that the Council made, but other evidence can be presented by both the appellant and the Council. The court will come into its own independent decision. If the appeal is unsuccessful the Council is likely to make an application to the court for its full costs to be paid by the

unsuccessful appellant. If the appeal is successful, the Council is likely to resist any application that is made to the court for an award by the appellants that the Council should pay their costs.³

15. Suitability of applicants

- 15.1. The legislation makes it quite clear that the Council cannot grant a driver licence or a private hire operator licence unless they are satisfied that the applicant is a fit and proper person. It is for the applicant to prove that they are a fit and proper person, and not for the Council to prove that they are not.
- 15.2. In relation to a hackney carriage or private hire vehicle (proprietor) licence there is no statutory requirement for the Council to be satisfied that the applicant is a fit and proper person. However, the Council has an absolute discretion as to whether or not to grant such a licence and in addition to considering the vehicle itself, the Council will also take into account the suitability of the applicant.
- 15.3. The Council has taken guidance produced by the Institute of Licensing (IoL) into account in producing this policy. This suggests that the phrase “fit and proper” can be explained and be more easily understood by using the term “safe and suitable”. This is the term that the Council will use throughout this document and it should be read to mean fit and proper.
- 15.4. That guidance also contains guidelines on suitability which are almost identical to the DfT guidance in Statutory Standards. These have been incorporated into this policy and form the basis of the previous convictions policy.
- 15.5. Ideally, all those involved in the hackney carriage and private hire trades (hackney carriage and private hire drivers, hackney carriage and private hire vehicle owners and private hire operators) would be persons of the highest integrity. In many cases that is true, and the vast majority of those involved in these trades are decent, upstanding, honest and hard-working individuals. Unfortunately, as in any occupation or trade, there are those who fail to conform to those standards.
- 15.6. However it is recognised that some applicants and licensees will have criminal convictions or other matters in their personal history which may

³ This follows the ruling of the Court of Appeal in R (app Perinpanathan) v Westminster Magistrates' Court [2010] 1 W.L.R. 1508 CA

affect the safety and suitability to hold a hackney carriage or private hire licence.

- 15.7. The previous convictions policy provides guidance in some cases. These standards will be used in relation to all licences: driver, operator and proprietor. This is to ensure that the standards are maintained across the trades, and to reassure the public that only safe and suitable people are licensed for any role in the hackney carriage or private hire vehicle industry.
- 15.8. In all cases every application will be considered on its own merits, but in the light of the previous convictions policy. If the previous convictions policy does not cover the particular matter then a decision will be made from first principles where the question will be whether, in the light of that information the Council can be satisfied that the applicant is a safe and suitable or fit and proper person to be granted that licence.
- 15.9. The decision as to whether or not a licence should be granted is made on the facts at the time of that decision but the Council has powers to take action against any licence that has been granted (the licence can be suspended, revoked, or the Council can refuse to renew it). It is vitally important that licensees understand that the test of safety and suitability is not simply to be met when the application has been granted. It is a continuing situation and if at any time during the duration of the licence the behaviour or conduct of the applicant falls below that which would be acceptable for a new applicant, the Council will consider whether or not action should be taken against that licence.
- 15.10. At all times the sole consideration will be public safety.

16. Behaviour of licensees

- 16.1. All licensees (drivers, operators and vehicle proprietors) are professionals undertaking a highly responsible activity which protects and ensures the safety of their passengers, customers, other road users and the public at large.
- 16.2. The highest standards of integrity and behaviour are expected, and these must be maintained at all times. The Council is concerned with the overall character of licensees, and not simply when the licence is being used. As a result, any behaviour at any time which falls short of the standards expected will lead to the Council considering whether that licensee should be allowed to retain their licence.

- 16.3. Where unacceptable behaviour occurs in connection with the use of the licence, which will be regarded as an aggravating feature, and behaviour which is not connected with the use of the licence will not be seen as less serious.
- 16.4. The overall aim of this policy is to ensure that the hackney carriage and private hire trades continue to provide a safe and satisfactory service to the public, and actions or behaviour that affect or reduce those standards will not be tolerated by the Council.

17. Enforcement

- 17.1. In any situation where there has been non-compliance with any requirement, or behaviour which fall short of the requirement to remain a 'fit and proper' person to hold a licence, the Council will consider enforcement action. In addition, action will be taken in respect of vehicles that do not comply with either the Council's requirements or road traffic laws. Any enforcement action will be guided by the Council's enforcement policy, and may result in one or more of the following (this is not an exhaustive list):
- a) Take no action;
 - b) Issue warning letters
 - c) Issue penalty points;
 - d) Use statutory notices (suspension of a vehicle licence using section 68 of the 1976 Act);
 - e) Suspension of a licence;
 - f) Revocation of a licence;
 - g) Prosecution in respect of criminal offences.
- 17.2. The Council's Penalty Points Scheme, mentioned above is detailed in a separate document.

18. Decision Making

- 18.1. Responsibility for hackney carriage and private hire licensing will be split between the Council and the Executive.
- 18.2. Most functions are the responsibility of the Council and as a general rule most matters will be dealt with by Officers under delegated authority.

- 18.3. When the Council's constitution is amended, the following matters will be reserved to Committee:
- a) Applications for new licences where approval would be outside of this policy;
 - b) An appeal by a licensee against the award of 12 or more penalty points under the Penalty Points Scheme;
 - c) Imposition of a sanction for exceeding the threshold of points allowed to be accumulated in a rolling year under the Penalty Points Scheme;
 - d) Revocation of the following:
 - i. Hackney Carriage Proprietors (Vehicle) Licences
 - ii. Private Hire Vehicle (Proprietors) Licences
 - iii. Private Hire Operators Licences
 - e) Any other matter referred by Officers to the Committee for decision.
- 18.4. The decision to revoke a Driver Licence will be delegated to Officers in consultation with the Chair of the Committee (or their nominee).
- 18.5. There is no difference in the decision-making process between Officers and the Committee. In both cases the applicant or licensee will be given an opportunity to make representations and those will be taken fully into account. There may be occasions when a very short timescale will be provided for representations to be made. This is likely to occur where action needs to be taken quickly in relation to a driver licence. In those circumstances, the licensee will be contacted by all practicable means to be informed of the date and time of the decision and given an opportunity to attend. If, however, the licensee cannot be contacted or does not attend, then the decision will be taken in their absence.
- 18.6. In all cases the matter will be considered entirely on its own merits, in the light of this policy and any guidance issued by the DfT.
- 18.7. Full and detailed reasons for all decisions will be provided to the applicant or licensee, together with details of the rights of appeal.

19. Equality of treatment and discrimination

- 19.1. The Council will treat all applicants and licensees equally and fairly. There will be no discrimination on any ground and each and every application

and subsequent decision will be considered on its merits in the light of the legislation, guidance and this policy.

- 19.2. The Council will not accept or tolerate any discriminatory behaviour on the part of any applicant or licensee. This includes any discrimination on the grounds of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, or sexual orientation, but that is not an exhaustive list.
- 19.3. All licensees must at all times treat people courteously, civilly and decently.
- 19.4. Any complaints that are received by the Council that indicate that the licensee has failed to uphold the standards will be investigated thoroughly, and if substantiated will lead to action being taken against that licence.

20. Safeguarding

- 20.1. The Council is committed to safeguarding and promoting the welfare of children, young people, and adults at risk, vulnerable persons and all other members of society. We take our responsibilities seriously and expect all our licensed drivers, proprietors and operators to share this commitment.
- 20.2. Licensed drivers, proprietors and operators must consider the safety, security and welfare of the their passengers, customers and the public generally when determining what safeguarding measures they should put in place in relation to their activities as a licensee.
- 20.3. All new applicants for dual driver licences, private hire operator licences and hackney carriage and private hire proprietor (vehicle) licences will be required to attend and successfully pass a safeguarding course and test, as required by the Council, in order to obtain a pass certificate. There is no limit for the number of attempts to complete the test, to be undertaken at the applicant's own expense, however no licence will be issued until the applicant provides a valid certificate showing they have passed the safeguarding course.
- 20.4. As part of the licence renewal application process renewal applicants will be required to submit a current safeguarding pass certificate, no older than 3 months, issued by a provider approved by the Council. That must be provided:
 - a) Every 3 years for drivers;
 - b) Every 3 years for vehicle proprietors;

- c) Every 5 years for private hire operators.

20.5. It is the duty of the applicant to ensure that they have completed the course and passed the test in sufficient time before applying for a renewal licence. There is no limit for the number of attempts to complete the test, to be undertaken at the applicant's own expense, however no licence will be issued until a certificate is produced.

21. Equality Act and Disability Discrimination.

21.1. All licensees must ensure that they comply with their statutory duties in relation to disabled people under the Equality Act which includes not charging disabled people any more for a particular journey than an able-bodied person would be charged.

21.2. Drivers of vehicles designated by the Council in the list of wheelchair accessible vehicles must:

- a) be able to carry the passenger while in the wheelchair;
- b) not make any additional charge for doing so;
- c) if the passenger chooses to sit in a passenger seat, be able to carry the wheelchair;
- d) take such steps as are necessary to ensure that the passenger is carried in safety and reasonable comfort;
- e) give the passenger such mobility assistance as is reasonably required and is safe to undertake.

21.3. Mobility assistance is assistance:

- a) to enable the passenger to get into or out of the vehicle;
- b) if the passenger wishes to remain in the wheelchair, to enable the passenger to get into and out of the vehicle while in the wheelchair;
- c) to load the passenger's luggage into or out of the vehicle;
- d) if the passenger does not wish to remain in the wheelchair, to load the wheelchair into or out of the vehicle.

21.4. This does not apply if the driver has a certificate of exemption and the specified notice is displayed in the vehicle at the time.

21.5. Drivers of hackney carriages must carry an assistance dog and allow it to remain with their owner unless they have a certificate of exemption issued

by the Council. They must not make any additional charge for doing so. When an assistance dog is being carried, the driver must allow it to be carried wherever the owner requires i.e. the driver cannot insist on the dog being separated from the owner or the owner and dog sitting in a particular seat (section 168 of the Equality Act 2010). The same requirements apply to drivers of Private Hire Vehicles when the operator has accepted a booking for a passenger with an assistance dog (whether or not the driver is aware of the existence of the dog) unless they have a certificate of exemption issued by the Council. The operator cannot make any additional charge for the carriage of the dog.

22. Complaints about licensees

- 22.1. If any person has any complaint/compliment about the behaviour or actions of a licensee (driver, operator or proprietor) they should contact the Licensing Section at taxi-licensing@herefordshire.gov.uk or to Licensing Section, Herefordshire Council, 8 St Owen Street, Hereford HR1 2PJ.
- 22.2. Complaints/compliments can be made by email, letter or via the Council's website.
- 22.3. To enable a complaint/compliment to be investigated that person must provide their name, address and contact details to the Council but these will not necessarily be passed on to the licensee. The licensing officers will consider all complaints and in the first instance are likely to view the CCTV footage of the incident reported. If the complaint is taken forward by the Council there will be full discussion with the complainant and agreement as to whether or not their identity can be revealed to the licensee. Depending on the outcome of the investigation, the Council may take appropriate action against the licensee. The Council will keep complainants informed of the progress of the investigation, any subsequent action taken and outcome of any subsequent court proceedings.

23. Hackney Carriage and Private Hire Driver Licences

- 23.1. The Council issues combined driver licences. That means that the licence is issued under both section 46 of the 1847 Act to drive a Hackney Carriage Vehicle, and section 51 of the 1976 Act to drive a Private Hire Vehicle. In both cases the vehicle must be licensed by the Council.

- 23.2. To be licensed as a driver, the following requirements must be met by the applicant (full details are set out in a separate document on driver licences):
1. must be aged at least 21;
 2. must have held a full (not provisional) valid driver's licence for at least one year. This must be a UK, Northern Ireland, EU or exchangeable licence. In the case of an exchangeable driving licence this can only be used in the UK for a maximum of one year, after which it must be exchanged for a UK licence;
 3. must have the right to live and work in the UK;
 4. provide a medical certificate from their own GP;
 5. pass the Council's approved knowledge test;
 6. passed the Council approved child sexual exploitation and safeguarding training;
 7. Been deemed suitable by checks on criminal and motoring convictions.
- 23.3. The applicant must obtain an enhanced DBS certificate with a check of both the adult and child barred lists. This is applied for in conjunction with the Council and will include a check of both the adult and children barred lists. The application must be made within one month of the date on the certificate.
- 23.4. A completed application must have been received by the Council, the application must have been processed, and the Council must be satisfied that the applicant has the right to remain and work in the UK, holds a valid driving licence (and has done so for at least 1 year) and is a fit and proper person (as required by sections 51(1) (a) (i) and 59(1) (a) (i) of the 1976 Act).
- 23.5. As part of that process the Council will check the National Register of Refusals and Revocations (NR 3), undertake checks with DVLA, and where an applicant lives outside Herefordshire, contact will also be made with the authority in whose area they ordinarily resident. In addition, information may be shared with other departments of the Council, other local authorities, HMRC, the police and immigration services. As a user of the NR 3, the Council will check the name of every applicant for a driver licence against the database, and will add to the NR3 database the required details of any driver whose licence application is refused or whose licence is revoked.

- 23.6. Applicants can complete the application form, satisfy the immigration checks and provide the DBS certificate without undertaking the knowledge test, safeguarding training or medical if they wish. This is referred to as a provisional application and will enable them to be satisfied that the Council will regard them as being a fit and proper person, subject to the additional requirements. This will save expenditure on the part of the applicant in situations where there is doubt as to whether or not a licence will be granted based upon their previous convictions.
- 23.7. The Council does not attach conditions to a taxi driver licence. Although the legislation allows conditions to be attached to a private hire driver licence, they cannot be attached to a hackney carriage driver licence. To ensure that the standards of behaviour are the same when drivers are driving either type of vehicle, the Council has decided to adopt a Code of Conduct. These are not conditions attached to the licence but rather this is the standard of behaviour expected from all taxi drivers.
- 23.8. If there is any non-compliance with this Code of Conduct, or the driver's behaviour falls short of these requirements, the Council will then consider whether or not that person remains a safe and suitable person to hold a licence. The consequences of not complying with the Code of Conduct include penalty points being awarded, suspension of the licence, and revocation of the licence or non-renewal of the licence.

24. Hackney Carriage Proprietor (Vehicle) Licences

- 24.1. Once a vehicle has been licensed as a hackney carriage, it retains that status all day every day for the duration of that proprietor (vehicle) licence. That means that it can only be driven by a person who holds a Herefordshire taxi driver licence entitling them to drive a hackney carriage licensed by the Council. The exception to this is when the vehicle is being tested.
- 24.2. Full details are set out in a separate document on hackney carriage proprietor (vehicle) licences.
- 24.3. Applicants for a hackney carriage proprietor licence must provide a basic DBS at the time of first application and on every renewal, unless a previous DBS has been provided as part of the driver licence process and it is in date.
- 24.4. The council sets fares for Hackney carriages. The mechanism for doing so is contained in section 65 of the 1976 Act. A fare review/increase will be initiated by the Council on an annual basis.

25. Private Hire Vehicle (Proprietor) Licences

- 25.1. Once a vehicle has been licensed as a private hire vehicle, it retains that status all day every day for the duration of that proprietor (vehicle) licence. That means that it can only be driven by a person who holds a Herefordshire dual driver licence entitling them to drive a Private Hire Vehicle licensed by the Council. There is no exception to this, even when the vehicle is being tested.
- 25.2. Full details are set out in a separate document on private hire vehicle (proprietor) licences.
- 25.3. Applicants for a private hire proprietor licence must provide a basic DBS at the time of first application and on every renewal, unless a previous DBS has been provided as part of the driver licence process and it is in date.

26. Private Hire Operator Licences

- 26.1. A Private Hire Vehicle must be booked via a private hire operator before the journey carrying passengers (the hiring) commences. A Herefordshire private hire operator can only operate (i.e. dispatch) a private hire vehicle driven by a private hire driver, both licensed by Herefordshire Council.
- 26.2. A Herefordshire operator can subcontract to another operator licensed anywhere in England (including Greater London), Wales or Scotland, and can also accept a subcontract from any other operator. When discharging a subcontract, the vehicle and driver used must be licensed by Herefordshire Council.
- 26.3. A Herefordshire licensed operator can advertise their services anywhere, not only within the area of the County.
- 26.4. Full details are set out in a separate document on private hire operator licences.
- 26.5. Applicants for a private hire operator licence and their telephone staff must provide a basic DBS at the time of first application annually thereafter, unless a previous DBS has been provided as part of the driver licence process and it is in date.