

Herefordshire Council

Revised Draft Hackney Carriage and Private Hire Policies - Explanatory Note

I have been asked to draft a revised hackney carriage and private hire policy for Herefordshire Council. This note explains the approach that I have taken.

The existing policy had developed over time with elements being added and modified, which resulted in the possibility of the document being interpreted in different ways.

Therefore, it seemed sensible to have a completely fresh approach. In doing so, I have used best practices from across England and Wales, and consulted with Herefordshire Council's legal officers and licensing team, and they have had a significant input into these final documents. The result is a cohesive policy which is split into sections at this consultation stage, but can be incorporated into one document when finally approved.

I have separated the policy from the conditions. Obviously the conditions will flow from and are based on the policy, but the two elements are distinct. My aim has been to produce a policy and a set of conditions which are clear and as simple as possible whilst retaining the measures that are vital for public safety.

At all times I have attempted to use plain English to ensure that the policy is as clear and unambiguous as possible. Having said that, it is important to remember that a policy is not legislation and is not intended to be as detailed or prescriptive as legislation, and should not be interpreted in the same way as legislation. The policy is a general guide to explain how the council will approach hackney carriage and private hire licensing. This will enable the council to have a consistent approach and for applicants, licensees and citizens to understand the decisions made by the Council. It also enables applicants and licensees to be clear as to what requirements there are.

As with any policy, the Council is not bound by this and can depart from it. Equally, the policy does not fetter the discretion of the Council although some parts are written in prescriptive terms and it makes use of "bright lines" (firm statements of intent which may appear to be absolute).

There are 7 sections:

1. Overall Policy
2. Penalty Points Scheme
3. Previous Convictions Policy
4. Driver Licences

5. Hackney Carriage Proprietor (Vehicle) Licences
6. Private Hire Vehicle (Proprietor) Licences
7. Private Hire Operator Licences

In each of the specific licence sections (driver, hackney carriage, private hire vehicle and private hire operator) there is a clear distinction between the policy and standard conditions which will then be attached to the licence. Each of these sections also contains details of the legislation that applies. As these are intended to be sections that can be read by a prospective applicant or licensee for that particular licence, they are comprehensive. As a consequence there is repetition between these sections.

I will now give a brief explanation of each section.

1. Overall policy

This outlines the general approach the Council will take to hackney carriage and private hire licensing. It includes definitions that are used throughout the policy and sections.

It also contains a brief overview of each of the licences (combined hackney carriage and private hire driver licences, hackney carriage vehicle (proprietor) licences, private hire vehicle (proprietor) licences and private hire operator licences.

This should be read before any other sections as it applies to all licences.

2. Penalty Points Scheme

The introduction to and explanation of the scheme has been reworded, but the matrix of penalty points remains similar to the existing policy.

3. Previous Convictions Policy

This has been revised to take account of the Department for Transport (DfT) guidance issued in July 2020 '*Statutory taxi and private hire vehicle standards*' and the guidance issued by the Institute of Licensing in 2018, on which the DfT guidance was based.

It is anticipated that all authorities will use a similar approach, and certainly that is the aim of the DfT.

4. Driver Licences

This details the policy of the Council in relation to drivers. This includes the requirements that must be met by an individual before a licence can be granted and details the continuing requirements to ensure that the licensee remains a fit and proper person.

As conditions cannot be attached to a hackney carriage drivers licence (although they can be attached to a private hire drivers licence) there are no conditions in this section. Instead there is a Code of Conduct which details the standards of behaviour expected of drivers. If a licensee falls short of those standards that will lead to questions as to whether they remain a fit and proper person to hold the licence.

This section also contains the hackney carriage byelaws and details the legal requirements contained within the legislation, split into the requirements when driving a hackney carriage and when driving a private hire vehicle.

5. Hackney Carriage Proprietor (Vehicle) Licences

This details the policy of the Council in relation to hackney carriage vehicles. It contains the specifications that the vehicles must meet before licence will be granted and also contains the conditions that will be attached to a hackney carriage proprietor licence.

This section also contains the hackney carriage byelaws and details of the legal requirements contained within the legislation.

6. Private Hire Vehicle (Proprietor) Licences

This details the policy of the Council in relation to private hire vehicles. It contains the specifications that the vehicles must meet before the licence will be granted and also contains the conditions that will be attached to a private hire vehicle licence.

There are also the legal requirements contained within the legislation.

7. Private hire operators licences

This details the policy of the Council in relation to private hire operators. It details the requirements for an individual, partnership or limited company before a licence can be granted.

It also contains the conditions that will apply to that licence once it has been granted.

There are also the legal requirements contained within the legislation.

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