

HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING POLICY 2012



1 INTRODUCTION

1.1 Powers and Duties

This Licensing Policy has been produced pursuant to the powers conferred by the Local Government (Miscellaneous Provisions) Act 1976, as amended, which places on Harborough District Council the duty to carry out its functions in respect of Hackney Carriage and Private Hire drivers and vehicles. This policy has been produced in line with the Department of Transport's Best Practice Guidance.

1.2 Objectives

In setting out its policy Harborough District Council seeks to promote the objectives as per below: Harborough District Council may also enforce against any breaches and prosecute in accordance with the Council's Enforcement policy.

Will ensure the protection of public safety;
The establishment of a professional and respected hackney carriage and private hire trade;
Access to an efficient and effective public transport service;
The protection of the environment.

In order to meet these policy objectives the Authority aims to:

Ensure that drivers are trustworthy, physically fit and capable of driving their vehicles;
Ensure that drivers display good standards of courtesy and behaviour at all times and comply with the authority's standards on equality issues;
Check that vehicles are suitable for the purpose, safe to operate maintained to the appropriate standard and have appropriate insurance for the purpose of hackney carriage/private hire;
Ensure that operators maintain adequate records for the benefit of passengers and drivers;
Ensure that all parts of the trade operate within their legal requirements;
Provide members of the trade and those wishing to join it with relevant information and advice;
Ensure confidentiality.

The aim of the licensing process in this context, is to regulate the hackney carriage and private hire trade in order to promote these objectives. It is the Council's wish to facilitate well-run and responsible businesses which display a sensitivity to the needs of the general public.

1.3 In exercising its discretion in carrying out its regulatory functions, the Licensing Authority shall have regard to this policy document and the objectives set out above.

1.4 Each application or enforcement measure shall be considered on its own merits, using the policy as a main guideline. Where it is necessary for the

Licensing Authority to depart substantially from its policy, clear and compelling reasons shall be given for doing so.

- 1.5 This policy shall take effect from **1st April 2013** and shall be kept under review and revised as appropriate, at intervals of no less than 2 years except where legislation demands change.

2 VEHICLES

2.1 Specifications

Hackney Carriage

Saloon vehicles shall not be more than five years old when first licensed. London type taxis shall not be more than ten years old when first licensed. Transit vehicles shall be no more than 8 years old when first licensed. The age of vehicles will be judged by, so far as can be ascertained, the date of manufacture or first DVLA registration of the vehicle.

Vehicles shall have at least four doors and should not have an engine capacity of less than 1274cc. They are to be suitable for carrying not less than 4 passengers in comfort with adequate luggage space. The Council has not made any other requirements with respect to vehicles.

With respect to seating, this should be padded. Slatted wooden seats are considered inadequate. Where seats are continuous, 1ft 4ins. measured horizontally along the front of each seat should be allowed for each passenger. Any vehicle which is constructed or adapted to seat more than 8 passengers cannot be licensed as a private hire vehicle.

Condition of Vehicle

The proprietor shall ensure the Hackney Carriage vehicle shall be maintained in a sound mechanical and structural condition at all times and be capable of satisfying the Council's mechanical and structural inspection at any time during the continuance of the vehicle's licence.

The vehicle shall have displayed the name of the Taxi Company and telephone number in a prominent position on the vehicles doors.

The interior and exterior of the hackney carriage shall be kept in a clean condition and maintained in a safe condition by the proprietor.

The proprietor shall not allow the mechanical and structural specification of the vehicle to be varied without the written consent of the Council.

The proprietor of the vehicle shall:-

- a) Provide sufficient means by which any person in the hackney carriage may communicate with the driver during the course of

hiring.

- b) Cause the interior of the vehicle to be kept wind and water tight.
- c) Provide windows and means of opening and closing the same with not less than one window on each side of the passenger compartment.
- d) Cause the seats in the passenger compartment to be properly cushioned and covered.
- e) Cause the floor in the passenger compartment to be provided with a proper carpet, mat or other suitable covering.
- f) Cause fittings and furniture of the hackney carriage to be kept in a clean condition and well maintained and in every way fit and safe for public use.
- g) Provide facilities for the conveyance of luggage safely and protected from inclement weather.
- h) Provide at least two doors for use of persons conveyed in such hackney carriage and private hire and a separate means of ingress and egress from the driver.

Private Hire

- i) The vehicle must not be an Austin FX4
- ii) The vehicle must not be left hand drive.
- iii) The vehicle must not be a convertible ie: have a soft top.
- iv) The vehicle must have at least 4 doors.
- v) Private hire cars may be licensed for up to 8 passengers (small mini-buses etc). The approval for the use of such vehicles depends on:-
 - a) all seats positioned to ensure the comfort and safety of the passenger;
 - b) there must be at least two separate means of exit for all passengers seated to the rear of the driver's seat. The exits and paths to the exits must be unobstructed by seating, wheel arches, engine cowling, vehicle trim or other protrusions, so that passengers have a second means of exit in case the first is unavailable either because of malfunction or accident.
 - c) Tip-up seats are not permissible.

Condition of Vehicle

The proprietor shall ensure the private hire vehicle shall be maintained in a sound mechanical and structural condition at all times and be capable of satisfying the Council's mechanical and structural inspection at any time during the continuance of the vehicle's licence.

The interior and exterior of the private hire vehicle shall be maintained in a clean, safe condition by the proprietor.

The proprietor shall not allow the mechanical and structural specification of the private hire vehicle to be varied without the consent of an Authorised Officer of the Council.

The proprietor of the vehicle shall:-

- a) Provide sufficient means by which any person in the private vehicle may communicate with the driver during the course of the hiring.
- b) Cause the interior of the vehicle to be kept wind and water tight.
- c) Provide windows and means of opening and closing same with not less than one window on each side of the passenger compartment.
- d) Cause the seats in the passenger compartment to be properly cushioned and covered.
- e) Cause the floor in the passenger compartment to be provided with a proper carpet, mat or other suitable covering.
- f) Cause fittings and furniture of the private hire vehicle to be kept in a clean condition and well maintained and in every way fit and safe for public use.
- g) Provide facilities for the conveyance of luggage safely and protected from inclement weather.
- h) Provide at least two doors for use of person conveyed in such private hire vehicle and a separate means of ingress and egress from the driver.

2.2 Vehicle Testing

There will be an annual and a six monthly tests for all vehicles. The Council can set the frequency of the tests and we have determined the tests to be carried out on a six monthly basis.

Four taxi testing stations are approved by the Council; no other station may be used except in the case of special vehicles which may from time to time need to be tested elsewhere. This requirement is in addition to the M.O.T. test.

2.3 Vehicle Licence

If a Vehicle Licence expires the full application must be repeated, unless the Council deems there are exceptional circumstances.

2.4 Environmental Considerations

The Department of Transport Guidance asks licensing authorities to consider how their vehicle licensing policies can and should support any local environmental policies, bearing in mind the need to ensure that the benefits outweigh the costs. Taxis and Private Hire vehicles are an essential form of transport within the Harborough District area and as such already play their part in helping to improve environmental improvement by achieving higher occupancy rates than many private cars.

2.5 Accessibility

The Council will actively seek to encourage Proprietors and Operators especially those with ten or more vehicles, to provide at least one vehicle which is fully wheelchair accessible, that is, able to take any form of wheelchair, including motorised wheelchairs.

2.6 Exemptions for Private Hire vehicle to display a plate

In certain circumstances it is accepted that it is inappropriate to have a plate displayed on a Private Hire vehicle and exemptions will be granted where there is good reason. The circumstances where an exception could be given would include:

When carrying passengers for hire or reward to/from or in connection with any wedding ceremony;

Specific occasions would be likely to be those involving a 'Chauffeur Service' in an executive style vehicle.

3 DRIVERS

3.1 Licences

The Council will issue licences in respect of both Hackney Carriage and Private Hire drivers if all the below requirements/criteria are satisfied.

3.2 Age and Experience

In line with the Department of Transport's guidance, there is no maximum age for Drivers provided that regular medical checks are made. Any applicant must have held a full British Driving licence for 3 years. However, in certain circumstances the Council may consider any application, dependant on individual merit.

3.3 Driver Knowledge Tests

There will be a Driver knowledge test for all new drivers as part of their initial application. This will consist of three parts:

Topographical (local road network) test
Highway Code
Hackney Carriage and Private Hire Licensing Law and Harborough District Council conditions.

In order to maintain the high standard that the Council expects of its drivers, a licence will not be granted unless the Council is satisfied that the applicant is a fit and proper person. In this context a driver's ability to pass these tests are seen as a fundamental skill in providing a quality service for passengers.

There will be a separate charge for this test.

3.4 Medical Examination

All applicants must undergo a medical examination as part of their initial application.

- The Licensing Officer will give you a medical examination form to be filled in by a doctor.
- You may choose which doctor you wish to use.
- You are responsible for any fees charged.

Thereafter medicals are to be undertaken as follows:-

Age	Frequency
21-34	every 3 Years
35-54	every 2 Years
55 and over	annually

Where there is any doubt as to the medical fitness of the Applicant, the Council may require the applicant to undergo and pay for a further medical examination by a Doctor appointed by the Council.

3.5 Criminal Records Bureau Disclosures

These will be at the level of Enhanced Disclosures as these include details of spent convictions and police cautions. These will be obtained every three

years in line with Department of Transport guidelines. Drivers are obliged to report to the Council any new convictions.

The Rehabilitation of Offenders Act 1974 has been amended to exclude Taxi Drivers therefore applicants are required to disclose all convictions cautions and prosecutions.

In the case of an overseas applicant where it is not possible to obtain an enhanced disclosure from the Criminal Records Bureau a Certificate of Good Conduct must be provided from the relevant embassy or legation. This Council is a registered CRB body and has a robust system for checking applicants and their documentation. The Council is bound by rules of confidentiality, and will not divulge information obtained by third parties. The Applicant for a CRB Disclosure will be sent a separate report to their home address; the Council will receive another copy of the report.

In line with DOT guidance this Council will consider each case on its own merits but a particularly cautious view will be taken of any convictions relating to dishonesty, violence, racial incidents and especially sexual attack. Please refer to Appendix A for further information.

3.6 Equalities

Harborough District Council condemns all incidents of harassment whether racist, religiously motivated, homophobic or due to gender or disability, whether perpetrated by Council Staff, employees agents, third parties or those involved in providing licensed taxi service, whether Hackney Carriage or Private Hire.

A serious view will be taken of all incidents of this nature including the possession of inflammatory material and inappropriate use of language. All offences will be taken seriously because of the significant social damage done by these offences. If incidents are reported to the Council then they will be investigated and where warranted, enforcement action will be taken against the perpetrator. If this matter were to go to court on appeal these allegations can and should be put before the court to help it determine whether the driver or operator is a fit and proper person. The Authority intends to abide strictly by this policy and comply with not only the legal requirements but also the spirit and intent of the legislation.

The Authority will encourage Equalities training for all drivers and may make attendance at this training compulsory for any driver where there is a reasonable suspicion of non-compliance with this policy.

3.6 Accessibility

Harborough District Council is committed to social inclusion and ensuring that a wide variety of opportunities are available to all residents to enjoy a high quality of life and ensure that all services are, as far as it is possible, accessible to all members of the public. Therefore there will be a requirement for all drivers of Hackney Carriage and Private Hire vehicles to have

undertaken Disability Awareness training. There will be a licence requirement for either accredited Disability Awareness Training or an assessment by the Council regarding the suitability of whether any other training undertaken would be sufficient to meet this need. Other equalities training may be required from time to time. It is the Council's intention to review this policy regularly as legislation dictates and as the need arises.

3.7 Code of Good Conduct

In order to promote the licensing objectives the Council has adopted a Code of Good Conduct for Drivers which should be read in conjunction with other statutory and policy requirements set out in this document.

3.8 Drivers Licence

If the Driver's licence has expired, the full application process must be repeated, unless there are exceptional circumstances.

4 PRIVATE HIRE OPERATORS

4.1 Operators Licences

Any person who operates a private hire service (who is not a hackney carriage proprietor who permits hackney carriages to be used for private hire) must apply to the Council for an Operator's Licence. The objective in licensing operators is public safety. Such a licence permits the operator to make provision for the invitation or acceptance of bookings for a private hire vehicle.

A Private Hire Operator must ensure that every private hire vehicle is driven by a person who holds a Driver's licence.

4.2 Record Keeping

Operators are required to keep records of each booking, including the name of the passenger, the start and the destination of the journey, the name of the driver and the number of the vehicle. This would enable checks to be made in the event of the need to investigate an incident or for enforcement.

4.3 Licence Duration

A Private Hire Operator's Licence will be granted for a period of one year.

4.4 Address from which an Operator may operate

The Operator must inform the Council in writing of any change of address (whether this is a home address or the address from which he/she operates). The Council will not grant an Operator's Licence for any address outside the area of Harborough District Council. This is to ensure that proper regulation and enforcement measures may be taken by the Council it is in no way intended to be a restraint on the trade.

5 DISCIPLINARY AND ENFORCEMENT MEASURES

In pursuance of its objective to encourage responsible Hackney Carriage and Private Hire businesses, the Council will operate a firm but fair disciplinary and enforcement regime. With a view to balancing the promotion of public safety with the need to permit individuals to safeguard their livelihood without undue interference, This Council will only intervene where it is necessary and proportionate to do so, having regard to the licensing objectives.

5.1 Range of Powers

The Council may take any of the steps below, upon receipt of evidence, that an offence has been committed in relation to a Hackney Carriage Licence or a Private Hire Licence. A breach of any condition amounts to an offence in this context.

Suspension of the licence

Revocation of the licence

Refusal to renew the licence.
Prosecution

The above measures are not exclusive, i.e. more than one form of action could be taken if warranted by the offence.

5.2 Suspension

A vehicle licence may be given a Vehicle Defect Rectification Notice where the vehicle does not comply with the vehicle specifications defined in the Conditions Booklet and the Vehicle Inspection Report. Compliance with these conditions is essential and any defect found following an inspection by an authorised officer of the Council could result in a notice being issued. The suspension will be lifted when the vehicle fault has been rectified to the satisfaction of an authorised officer.

A drivers licence may be suspended with immediate effect for a hackney carriage or private hire driver where it is in the interests of the public safety to do so as pursuant to Section 52 of the Road Safety Act 2006. The driver may appeal this decision to the Magistrates court but this will not affect the suspension starting with immediate effect.

A suspension in respect of the above issues will be referred to a Regulatory Hearing Panel for determination within three working days of the Council being notified.

5.2 Revocation of a Licence

The Council may exercise its right to revoke a driver's licence and drivers can appeal this decision in all cases to the Magistrates' Court.

A driver licence may be revoked with immediate effect for a hackney carriage or private hire driver where it is in the interests of the public safety to do so as pursuant to Section 52 of the Road Safety Act 2006. The driver may appeal this decision to the Magistrates court but this will not effect the suspension starting with immediate effect.

A suspension in respect of the above issue will be referred to a Regulatory Hearing Panel for determination within three working days of the Council being notified.

5.3 Refusal to Renew a licence

The Council may also decide that the appropriate action, especially in the circumstances where a licence is shortly to expire, not to renew the licence. Drivers will have the right of appeal to the Magistrates' Court.

5.4 Prosecution

The Council will prosecute licence holders for relevant offences in the following circumstances:

Where the allegation is for a serious or repeated offence;

Where the Council proposes to caution the licence holder, but the offence is not admitted, or the caution accepted.

5.6 In all cases, the Council will present the grounds of the offence to the licence holder and offer the opportunity for him/her to be heard before a decision is made. Where enforcement action is taken, the licence holder will be clearly informed of the reason for the action, what it requires and what rights of appeal are available. Contact details will also be available in order that any areas of uncertainty can be addressed.

6 FARES

6.1 General

Licensing Authorities have the power to set taxi fares within their area (there is no power to set PHV fares). The Department of Transport sees it as good practice to review these fares at regular intervals.

6.2 Prescribed Rates

Taxi fares are set as a maximum, and in principle, are open to downward negotiation between passenger and driver. The driver of a Hackney Carriage, whether by agreement or not, must not charge any fare greater than the rate prescribed by the Council. The driver/operator of a private hire vehicle may make their own agreement with the hirer as to the fare for a particular journey.

6.3 Table of Fares

The table of authorised fares will be displayed in each Hackney Carriage so that it is easily visible to all hirers.

6.4 Review

Fare rates are only normally reviewed following representations from the trade or from any section of the trade, however care must be taken regarding the Department for Transport Guidance and regular reviews. The fares will not normally be reviewed more than once a year unless there are exceptional circumstances which would justify a further increase, for example a particularly sharp increase in petrol/diesel prices.

6.5 Receipts

A Hackney Carriage Driver must, if requested by the passenger, provide him/her with a receipt for the fare paid.

7 COMPLAINTS

Harborough District Council welcomes comments from the general public on all aspects of Hackney Carriage and Private Hire Vehicles and Drivers, as well as from members of the trade. These are of a positive help to the Council and provide valuable assistance in continuing to provide a high quality service. This is aimed at giving confidence to the general public that their views are valuable. All complaints will be taken seriously and investigations will be made and appropriate action taken. All complaints will be treated in the strictest confidence.

In order to facilitate this, a notice will be exhibited in all taxis giving details of the Council's Licensing Department, where a complaint can be made. This will be a condition of the vehicle licence.

Appendix A

Statement of Policy Regarding Relevant Convictions

1. Introduction

- 1.1 The purpose of this statement is to provide guidance on the criteria taken into account by the Council when determining whether or not an applicant or an existing

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licence holder is a fit and proper person to hold a hackney carriage and/or private hire driver or operator licence.

- 1.2 The overriding aim of the licensing authority is to protect the safety of the public. The licensing authority is concerned to ensure:
 - That a person is a fit and proper person
 - That the person does not pose a threat to the public
 - That the public are safeguarded from dishonest person
 - The safeguarding of children and young persons
- 1.3 This statement provides guidance to any person with an interest in taxi and private hire licensing. In particular, but not exclusively:
 - Applicants for drivers' licences
 - Existing licensed drivers whose licences are being reviewed
 - Licensing officers
 - Members of the Regulatory Committee/ Panel (or other relevant decision making body)
 - Magistrates Hearing Appeals against local authority decisions
- 1.4 Where licensing officers have delegated powers to grant licences, they will utilise these guidelines when making a decision to grant a licence. In all other cases applications for licences will be referred to the Regulatory Committee/Panel (or other relevant decision-making body). Whilst officers and the Committee/Panel will have regard to the guidelines contained in the policy, **each case will be considered on its individual merits and, where the circumstances demand, the committee/officer may depart from the guidelines.**

2. General policy

- 2.1 There may be occasions where it is appropriate to depart from the guidelines, for example where the offence is a one-off occasion or there are mitigating circumstances or alternatively where there are many or continuous offences which may show a pattern of offending and unfitness.
- 2.2 A person with a conviction for a serious offence need not be automatically barred from obtaining a licence, but would normally be expected to:
 - a. Remain free of conviction for an appropriate period; and
 - b. Show adequate evidence that her or she is a fit and proper person to hold a licence (the onus is on the applicant to produce such evidence). Simply remaining free of conviction may not generally be regarded as adequate evidence that a person is a fit and proper person to hold a licence.
- 2.3 **Where an applicant has been convicted of a criminal offence, the licensing authority cannot review the merits of the conviction** [Nottingham City Council v. Mohammed Farooq (1998)].

3. Appeals

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3.1 Any applicant refused a driver's licence on the grounds that the licensing authority is not satisfied he is a fit and proper person to hold such a licence has a right to appeal to the Magistrates' Court within 21 days of the notice of refusal [Local Government Miscellaneous Provisions Act 1976, s 77 (1)].

4. Powers

4.1 Section 61 and Section 62 of the Local Government Miscellaneous Provisions Act 1976 allow the licensing authority to suspend, revoke or refuse to renew a licence if the application/licence holder has been convicted of an offence involving dishonesty, indecency, violence; failure to comply with the provisions of the Town Police Clauses Act 1847; failure to comply with the provisions of Part II of the Local Government (Miscellaneous Provisions) Act 1976; or any other reasonable cause.

4.2 The Rehabilitation of Offenders Act 1974 (Exceptions)(Amendment) Order 2002, allows the licensing authority to take into account all convictions recorded against an applicant or the holder of a private hire vehicle or hackney carriage driver's licence, whether spent or not. Therefore the licensing authority will have regard to all relevant convictions, particularly where there is a long history of offending or a recent pattern of repeat offending.

4.3 In this policy the term "disqualification" refers to the period served, in order to take account of the fact that a Court may reduce the period of disqualification from driving. An applicant must provide evidence in advance to prove that the Court agreed a reduction in the period of disqualification.

5. Consideration of disclosed criminal history

5.1 Under the provisions of Sections 51, 55, and 59, Local Government (Miscellaneous Provisions) Act 1976, the licensing authority is required to ensure that an applicant for the grant or renewal of a hackney carriage and/or a private hire vehicle drivers' licence and/or private hire vehicle operators licence is a 'fit and proper' person to hold such a licence. However, if an applicant has any convictions, warnings, cautions or charges awaiting trial, the licensing authority will look into:

- How relevant the offence(s) are to the licence being applied for
- How serious the offence(s) were
- When the offence(s) were committed
- The date of conviction
- Circumstances of the individual concerned
- Sentence imposed by the court
- The applicant's age at the time of conviction
- Whether they form part of a pattern of offending
- Any other character check considered reasonable (e.g. personal references)
- Any other factors that might be relevant

5.2 Existing holders of drivers' licences are required to notify the licensing authority in writing within twenty-eight days of receiving a driving licence endorsement, fixed penalty notice or criminal conviction (including cautions).

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- 5.3 Applicants can discuss further what effect a caution/conviction may have on any application by contacting the Senior Licensing Officer in confidence for advice.
- 5.4 The licensing authority conducts enhanced disclosures from the Criminal Records Bureau (CRB) of any applicant for a driver licence. The licensing authority follows the CRBs Code of Practice on the fair use of disclosure information. A copy is available on request.
- 5.5 More information about the CRB can be found on their website at www.disclosure.gov.uk.
- 5.6 The licensing authority is also entitled to use other records and information that may be available to it in determining applications or an entitlement to continue holding a licence. This may include information held by the licensing authority or other licensing authorities, and information disclosed by the police under the Home Office scheme for reporting offences committed by notifiable occupations.
- 5.7 It is an offence for any person knowingly or recklessly to make a false declaration or to omit any material particular in giving information required by the application for a licence. Where an applicant has made a false statement or a false declaration on their application for the grant or renewal of a licence, the licence will normally be refused.

6 Serious offences involving violence

- 6.1 Licensed drivers have close regular contact with the public. A firm line is to be taken with those who have convictions for offences involving violence. An application will normally be refused if the applicant has a conviction for an offence that involved the loss of life.
- 6.2 In other cases anyone of a violent disposition will normally be refused to be licensed until at least 3 years free of such conviction. However, given the range of the offences that involve violence, consideration must be given to the nature of the conviction.
- 6.3 Unless there are exceptional circumstances a licence will not normally be granted where the applicant has a conviction for an offence such as:
- Murder
 - Manslaughter
 - Manslaughter or culpable homicide while driving
 - Terrorism offences
 - Or any similar offences (including attempted or conspiracy to commit) offences which replace the above
- 6.4 A licence will not normally be granted where the applicant has a conviction for an offence of similar offence(s) which replace the offences below and the conviction is less than 10 years prior to the date of application:
- Arson
 - Malicious wounding or grievous bodily harm which is racially aggravated
 - Actual bodily harm which is racially aggravated

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- Grievous bodily harm with intent
- Robbery
- Possession of firearm
- Riot
- Assault Police
- Common assault with racially aggravated
- Violent disorder
- Resisting arrest
- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above

6.5 A licence will not normally be granted where the applicant has a conviction for an offence or similar offence(s) which replace the offences below and the conviction is less than 5 years prior to the date of application:

- Racially-aggravated criminal damage
- Racially-aggravated offence
- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above

6.6 A licence will not normally be granted where the applicant has a conviction for an offence or similar offence(s) which replace the offences below and the conviction is less than 3 years prior to the date of application:

- Common assault
- Assault occasioning actual bodily harm
- Affray
- S5 Public Order Act 1986 offence (harassment, alarm or distress)
- S.4 Public Order Act 1986 offence (fear of provocation of violence)
- S4A Public Order Act 1986 offence (intentional harassment, alarm or distress)
- Obstruction
- Criminal damage
- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above

6.7 A licence will not normally be granted if an applicant has more than one conviction in the last 10 years for an offence of a violent nature.

6.8 In the event of a licence being granted, a strict warning both verbally and in writing should be administered.

7. Possession of a weapon

7.1 If an applicant has been convicted of possession of a weapon or any other weapon related offence, this will give serious concern as to whether the person is fit to carry the public.

7.2 Depending on the circumstances of the offence, an applicant should be free of conviction for 3 years (or at least 3 years must have passed since the completion of the sentence, whichever is longer), before a licence is granted.

8. Sex and indecency offences

- 8.1 As licensed drivers often carry unaccompanied and vulnerable passengers, applicants with convictions for sexual offences must be closely scrutinised. Those with convictions for the more serious sexual offences will generally be refused. For other offences, applicants will be expected to show a substantial period (normally at least 5 years) free of conviction for such offences before a licence will be granted.
- 8.2 (a) Unless there are exceptional circumstances, an application will normally be refused where the applicant has a conviction for an offence such as:
- Rape
 - Assault by penetration
 - Offences involving children or vulnerable adults
 - Or any similar offences (including attempted or conspiracy to commit) offences which replace the above
- 8.3 (b) Before an application is allowed, an applicant should be free of conviction for at least 10 years (or at least 3 years must have passed since the completion of the sentence, whichever is longer), if he/she has a conviction for an offence such as:
- Sexual assault
 - Indecent assault
 - Possession of indecent photographs, child pornography etc.
 - Exploitation of prostitution
 - Trafficking for sexual exploitation
 - Or any similar offences (including attempted or conspiracy to commit) offences which replace the above
- 8.4 (c) Before a licence is granted, an applicant should be free of conviction for at least 3 years (or at least 3 years must have passed since the completion of the sentence, whichever is longer), if he/she has a conviction for an offence such as:
- Indecent exposure
 - Soliciting (kerb crawling)
 - Or any similar offences (including attempted or conspiracy to commit) offences which replace the above
- 8.5 In addition to the above the licensing authority will not normally grant a licence to any applicant who is currently on the Sex Offenders Register.
- 8.6 A licence will not normally be granted if an applicant has more than one conviction for a sex or indecency offence.

9. Dishonesty

- 9.1 A licensed PHV or taxi driver is expected to be a trustworthy person. They deal with cash transactions and valuable property may be left in their vehicles. Taxi drivers are required to deposit such property with Police within 24 hours. PHV drivers must pass lost property to the operator. The widespread practice of delivering unaccompanied property is indicative of the trust that business people place in licensed drivers. Moreover, it is comparatively easy for a dishonest driver to defraud the public by

demanding more than the legal or agreed fare, etc. Overseas visitors can be confused by our currency and may be vulnerable to an unscrupulous driver. For all these reasons, a serious view is taken of any conviction involving dishonesty.

- 9.2 In general, a minimum period of 3 years free of conviction or at least 3 years from completion of sentence (whichever is longer) should be required before granting a licence. Offences involving dishonesty include:
- theft
 - burglary
 - fraud
 - benefit fraud
 - handling or receiving stolen goods
 - forgery
 - conspiracy to defraud
 - obtaining money or property by deception
 - other deception
 - taking a vehicle without consent
 - Or any similar offences (including attempted or conspiracy to commit) offences which replace the above

10. Drugs

- 10.1 A serious view is taken of any drug related offence. The nature and quantity of the drugs, whether for personal use or supply are issues which should be considered.
- 10.2 A licence will not normally be granted where the applicant has a conviction for an offence related to the supply of drugs and has not been free of conviction for 5 years.
- 10.3 A licence will not normally be granted where the applicant has more than one conviction for offences related to the possession of drugs and has not been free of conviction for 5 years.
- 10.4 An application from an applicant who has an isolated conviction for an offence related to the possession of drugs within the last 3-5 years may be granted a licence, but consideration should be given to the nature and quantity of the drugs.
- 10.5 If there is evidence of persistent drugs use, misuse or dependency a specialist medical examination (in accordance with DVLA Group 2 medical standards) may be required before the licence is granted. If the applicant was an addict then they would normally be required to show evidence of 5 years free from drug taking after detoxification treatment.

11 Driving offences involving the loss of life

- 11.1 A very serious view is to be taken of any applicant who has been convicted of a driving offence that resulted in the loss of life.

A licence will not normally be granted unless the applicant is free of conviction for 7 years or (or at least 3 years must have passed since the completion of the sentence, whichever is longer) if he has a conviction for:

- Causing death by dangerous driving
- Causing death by careless driving whilst under the influence of drink or drugs
- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above

- 11.2 Before a licence is granted, an applicant should be free of conviction for 3 years (or at least 3 years must have passed since the completion of the sentence, whichever is longer), if he has a conviction for:
- Causing death by careless driving
 - Causing death by driving: unlicensed, disqualified or uninsured drivers

12 Drink driving/driving under the influence of drugs

- 12.1 As licensees are professional vocational drivers, a serious view is taken of convictions for driving, or being in charge of a vehicle while under the influence of drink or drugs. An isolated incident would not necessarily debar an applicant from proceeding on the restoration of his DVLA driving licence but he should be warned as to the significant risk to his licence status in the event of re-offending. More than one conviction for these offences raises significant doubts as to the applicant's fitness to drive the public. At least 3 years, after the restoration of the driving licence following a drink drive conviction should elapse before an application will be considered. If there is any suggestion that the applicant is alcohol or drug dependent, a satisfactory special medical report must be provided before the application can be allowed to proceed.

13 Outstanding charges or summonses

- 13.1 If the individual is the subject of an outstanding charge or summons their application can continue to be processed, but the application will need to be reviewed at the conclusion of proceedings. Where information is received through the Notifiable Occupations Scheme on existing licence holders, consideration will be made at committee.
- 13.2 If the outstanding charge or summons involves a serious offence and the individual's conviction history indicates a possible pattern of unlawful behaviour or character trait, then in the interests of public safety the application may be put on hold until proceedings are concluded or the licence may be refused.
- 13.3 A suspension or revocation of the licence of a driver takes effect at the end of the period of 21 days beginning with the day on which notice is given to the driver. If it appears that the interests of public safety require the suspension or revocation of the licence to have immediate effect, and the notice given to the driver includes a statement that is so and an explanation why, the suspension or revocation takes effect when the notice is given to the driver. [[Road Safety Act 2006, s 52, 2A&2B](#)]

14 Non-conviction information

- 14.1 If an applicant has, on more than one occasion, been arrested or charged, but not convicted, for a serious offence which suggests he could be a danger to the public,

consideration should be given to refusing the application. Such offences would include serious violent offences and serious sex offences.

- 14.2 In assessing the action to take, the safety of the travelling public must be the paramount concern.

15 Cautions

- 15.1 Admission of guilt is required before a caution can be issued. Every case will be considered on its own merits including the details and nature of the offence.

16 Licensing offences

- 16.1 Certain offences under taxi legislation such as plying for hire, overcharging and refusing to carry disabled persons would normally prevent a licence being granted or renewed until a period of 3 years has passed since .

17 Insurance offences

- 17.1 A serious view will be taken of convictions of driving or being in charge of a vehicle without insurance. An isolated incident in the past will not necessarily stop a licence being granted provided he/she has been free of conviction for 3 years, however strict warning should be given as to future behaviour. More than one conviction for these offences would normally prevent a licence being granted or renewed.
- 17.2 At least three years should elapse (after the restoration of the DVLA driving licence), before a licence would normally be granted for a hackney carriage or private hire drivers licence. An operator found guilty of aiding and abetting the driving passengers for hire and reward whilst without insurance will have his operators' licence revoked immediately and prevented from holding a licence for three years.

18 Overseas residents

- 18.1 If a private hire operator applicant has spent six continuous months or more overseas the licensing authority will expect to see evidence of a criminal record check from the country/countries covering the period.

19 Licences issued by other licensing authorities

19.1 Applicants who hold a licence with one licensing authority should not automatically assume that their application will be granted by another. Each case will be decided on its own merits.

20 Summary

20.1 To summarise, a criminal history in itself may not automatically result in refusal and a current conviction for a serious crime need not bar an applicant permanently from becoming licensed. As the preceding paragraphs indicate, in most cases, an applicant would be expected to remain free from conviction for 3 to 10 years, according to circumstances, before an application can be considered. However, there may be occasions when an application can be allowed before 3 years free from conviction have elapsed.

20.2 Any person who has committed an offence and has to wait before an application is positively considered is more likely to value their licence and act accordingly.

20.3 While it is possible that an applicant may have a number of convictions that, individually, meet the above guidelines, the overall offending history must be considered when assessing an applicant's suitability to be licensed. A series of offences over a period of time is more likely to give cause for concern than an isolated minor conviction. Obviously some discretion can be afforded if an offence disclosed is isolated and there are mitigating circumstances, but the overriding consideration is the protection of the public.

Annex A – Motoring offences and penalty points

The following is a guide to the number of penalty points a court may impose, it does not reflect the fact that some offences may incur a disqualification. These codes are recorded from information supplied by the courts (accurate at the time of this document).

Code	Offence	Penalty Points
Accident Offences		
AC10	Failing to stop after an accident	5-10
AC20	Failing to give particulars or to report an accident within 24 hours	5-10
AC30	Undefined accident offences	4-9
Disqualified Driver		
BA10	Driving whilst disqualified by order of court	6
BA30	Attempting to driver while disqualified by order of court	6
Careless Driving		
CD10	Driving without due care and attention	3-9
CD20	Driving without reasonable consideration for other road users	3-9
CD30	Driving without due care and attention or without reasonable consideration for other road users	3-9
CD40	Causing death through careless driving when unfit through drink	3-11
CD50	Causing death by careless driving when unfit through drugs	3-11
CD60	Causing death by careless driving with alcohol level above the limit	3-11
CD70	Causing death by careless driving then failing to supply a specimen for analysis	3-11
CD71	Causing death by careless driving then failing to supply A specimen for drug analysis	3-11
CD80	Causing death by careless, or inconsiderate, driving	3-11
CD90	Causing death by driving: unlicensed, disqualified or Uninsured drivers	3-11
Construction & Use Of Offences		

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CU10	Using a vehicle with defective brakes	3
CU20	Causing or likely to cause danger by reason of use of unsuitable vehicles or using a vehicle with parts or accessories (excluding brakes, steering or tyres) in a dangerous condition	3
CU30	Using a vehicle with defective tyre(s)	3
CU40	Using a vehicle with defective steering	3
CU50	Causing or likely to cause danger by reason of load or passengers	3
C80	Using a mobile phone while driving a vehicle	3
Dangerous Driving		
DD40	Dangerous Driving	3-11
DD60	Manslaughter or culpable homicide while driving a vehicle	3-11
DD90	Furious Driving	3-9
Drink or Drugs		
DR10	Driving or attempting to drive with alcohol level above limit	3-11
DR20	Driving or attempting to drive while unfit through drink	3-11
DR30	Driving or attempting to drive then failing to supply a specimen for analysis	3-11
DR40	In charge of a vehicle while alcohol level above limit	10
DR50	In charge of vehicle while unfit through drink	10
DR60	Failure to provide a specimen for analysis in circumstances other than driving or attempting to drive	10
DR61	Failure to supply a specimen for drug analysis in circumstances other than driving or attempting to drive	10
DR70	Failing to provide specimen for breath test	4
DR80	Driving or attempting to drive when unfit through drugs	3-11
DR90	In charge of a vehicle when unfit through drugs	3-11
Insurance Offences		
IN10	Using a vehicle uninsured against third party risks	6-8
Licence Offences		
LC20	Driving otherwise than in accordance with the licence	3-6
LC30	Driving after making a false declaration about fitness applying for a licence	3-6
LC40	Driving a vehicle having failed to notify a disability	3-6
LC50	Driving after a licence has been revoked or refused on medical ground	3-6
Miscellaneous Offences		
MS10	Leaving a vehicle in a dangerous position	3
MS20	Unlawful pillion riding	3
MS30	Play street offences	2
MS50	Motor racing on the highway	3-11
MS60	Offences not covered by other codes	As Appropriate
MS70	Driving with uncorrected defective eyesight	3
MS80	Refusing to submit to an eyesight test	3
MS90	Failure to give information as to identity of driver etc.	3
Motorway Offences		

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MW10	Contravention of Special Roads Regulations (excluding speed limits)	3
Pedestrian Crossings		
PC10	Undefined Contravention of Pedestrian Crossing Regulation	3
PC20	Contravention of Pedestrian Crossing Regulations with moving vehicle	3
PC30	Contravention of Pedestrian Crossing Regulations with stationary vehicle	3
Speed Limits		
SP10	Exceeding goods vehicle speed limits	3-6
SP20	Exceeding speed limit for type of vehicle (excluding goods or passenger vehicles)	3-6
SP30	Exceeding statutory speed limit on a public road	3-6
SP40	Exceeding passenger vehicle speed limit	3-6
SP50	Exceeding speed limit on a motorway	3-6
Traffic Directions And Signs		
TS10	Failing to comply with traffic light signals	3
TS20	Failing to comply with double white lines	3
TS30	Failing to comply with 'Stop' sign	3
TS40	Failing to comply with direction of a constable/warden	3
TS50	Failing to comply with a traffic sign (excluding stop signs, traffic signs or double white lines)	3
TS60	Failing to comply with a school crossing patrol sign	3
TS70	Undefined failure to comply with a traffic direction sign	3
Special Code		
TT99	To signify a disqualification under totting-up procedure. If the total of penalty points reaches 12 or more within 3 Years, the driver is liable to be disqualified	
Theft or Unauthorised Taking		
UT50	Aggravated taking of a vehicle	3-11

Aiding, abetting, counseling or procuring

Offences as coded, but with 0 changed to 2 e.g. LC10 becomes LC12.

Causing or permitting

Offences as coded, but with 0 changed to 4 e.g. LC10 becomes LC14.

Inciting

Offences as coded, but with the end 0 changed to 6 e.g. DD40 becomes DD46.

Non-endorsable offences

Some offences are non-endorsable. A non-endorsable offence is an offence which courts do not endorse onto paper counterpart. No penalty points are attributed to these offences but they carry a period of disqualification.

At the end of the disqualification (over 56 days) the driver will have to apply for a renewal licence together with the appropriate fee. Any queries about offences and endorsements should be directed to the convicting court.

Period of time

Periods of time are signified as follows: D=Days, M=Months, Y=Years

Endorsements remain on a counterpart licence for the following periods of time:

Endorsements must remain on a licence for 11 years from date of conviction if the offence is:

- Drinking/drugs and driving (shown on the licence as DR10, DR20, DR20 and DR80).
- Causing death by careless driving whilst under the influence of drink/drugs (shown on the licence as CD40, CD50 and CD 60).
- Causing death buy careless driving, then failing to provide a specimen for analysis (shown on the licence as CD70).

Or 4 years from the date of conviction if the offence is as listed below:

- Reckless/dangerous driving (shown on the licence as DD40, DD60 and DD80).
- Offences resulting in disqualification.
- Disqualified from holding a full licence until a driving test has been passed.

Or 4 years from the date of offence in all other cases.

Source www.direct.gov.uk

Appendix B

CODE OF GOOD CONDUCT FOR LICENSED DRIVERS

Responsibility to the Trade

Licence Holders shall promote the image of Hackney Carriage and Private Hire Trade by:

Complying with this Code of Good Conduct;

Complying with their licence conditions and the Council's Hackney Carriage and Private Hire Licensing Policy;

Behaving in a civil, orderly and responsible manner at all times.

Responsibility to the public

Licence Holders shall:

Maintain their vehicles in a safe and satisfactory manner at all times;

Keep their vehicles clean and suitable for hire to the public at all times;

Attend punctually when undertaking a pre-booked hiring;

Assist, where necessary, passengers into and out of vehicles;

Offer passengers reasonable assistance with luggage or belongings.

Responsibility to Residents

To avoid nuisance when picking up or waiting for a fare, a driver shall:

Not sound the vehicle's horn illegally;

Keep the volume of radio or music playing to a minimum;

Switch off the volume if required to wait;

Take whatever additional action is necessary to avoid disturbance to residents in the neighbourhood.

Rank in an orderly manner and proceed in order along the rank in order and promptly;

Remain in the vehicle;

At Private Hire Offices a licence holder shall:

Not undertake servicing or repairs to vehicles;

Not allow their radios or other music etc to cause disturbance to

residents of the neighbourhood;

Take whatever additional action is necessary to avoid disturbance to the neighbourhood which might arise from the conduct of their business.

General

Drivers shall:

Present a professional image to the public;

Be polite, helpful and fair to passengers;

Drive with care and use consideration for other road users and pedestrians and in particular shall not use a hand held mobile phone whilst driving;

Obey all Traffic Regulation Orders and directions at all times;

Not smoke in the vehicle;

Not consume alcohol immediately before, or at any time whilst driving or whilst in charge of a Hackney Carriage or Private Hire vehicle;

Not drive while having misused legal or illegal drugs;

Fulfil their responsibility to ensure compliance with legislation regarding the length of working hours.

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Discipline and Enforcement

Drivers should be aware of the powers of the Council to take action, by way of suspension, revocation or refusal to renew a driver's licence where:
The driver has been convicted, since the grant of the licence, of an offence involving dishonesty, indecency or violence;

The driver has been convicted of an offence under the legislation or Hackney Carriage and Private Hire Licensing. Policy relating to taxi regulation;

There is a breach of condition or this code.

Dress Code for Licensed Drivers

Harborough District Council is committed to encouraging the professional image of the Hackney Carriage and Private Hire trade, and considers that drivers of licensed vehicles should conform to a minimum standard of dress.

These standards are not imposed by way of conditions on any licence but it will be expected that this standard will be maintained by drivers at all times:

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All drivers are requested to dress smartly and maintain a clean and tidy appearance;

All clothing and footwear should be clean and not damaged;

No logos or graphics which might offend;

Appendix C

HACKNEY CARRIAGE AND PRIVATE HIRE DISCIPLINARY AND ENFORCEMENT POLICY

Harborough District Council has formally adopted the Government's Regulators Compliance Code. This means that this Council will be open, helpful, fair and careful to ensure that any action required is proportionate to the risks involved.

It is recognised that most persons want to comply with the law therefore in general; consideration will be given to alternatives to prosecution to ensure that those regulated comply with the law. In general action and enforcement will be carried out by The Senior Licensing Officer and the Licensing Enforcement Officer .

Enforcement Checks

Vehicles, Drivers and Operators are subject to enforcement checks, which are carried out on a regular basis. Staff will usually identify themselves, and deal with all enquiries efficiently and courteously. The Council will occasionally work with other agencies, including the Police and VOSA, to ensure compliance with legal requirements.

Proportionality

The Council will minimise the cost of compliance for the trade by ensuring that any action required is necessary and proportionate to the aims of public safety, the protection of the rights of others or the prevention or detection of crime. As far as the law allows, the Council will take into account the circumstances of the case and attitude of the individual when considering action.

Consistency

The Council will carry out its duties in a fair, equitable and consistent manner. While officers are expected to exercise judgement in individual cases, we will have arrangements in place to ensure consistency, including effective arrangements for liaison with other authorities and enforcement bodies through schemes such as those operated by the National Association of Taxi and Private Hire Licensing Enforcement Officers.

Levels of Enforcement Action

Prevention –. The first step will be to help prevent contravention of the law and conditions by raising awareness and promoting good practice.

Informal Action / Warnings – Breach of Condition or Driver's Conduct. -

The Council will use its best efforts to resolve any situation where the law may have been broken or conditions not conformed with, without taking formal action. This action will be by way of verbal advice, issuing of a vehicle defect rectification notice, written notice or written warnings depending on the seriousness of the breach. Three written notices or warnings within a 12 month period will usually result in formal action.

Formal Action – This includes the suspension, revocation or non renewal of a licence, and the use of cautions or prosecutions. These actions may be considered appropriate in the following circumstances;

A flagrant and serious breach of the law such that public health, safety or well being is or has been put at risk.

A past history of non-compliance or persistent/multiple offending.

Where an existing Licensee is convicted of an offence which may have prevented the initial grant of a licence.

Prosecution – In deciding whether to prosecute we follow the guidance set out in the Code for Crown Prosecutors to ensure the case passes both the evidential test and the public interest test. Prosecution may follow if one or more of the following circumstances apply:

Where there is a serious risk or danger to public or personal safety.

Where there is failure to follow advice with regard to legal requirements.

Where there is a history of similar offences.

Where the offence involves a failure to comply, in full or in part, with a written warning and/or caution.

Any formal enforcement action will be taken with regard to general principles of good enforcement, and will only take place following a interview under caution with an authorised officer from the council, unless the circumstances are exceptional and warrant more immediate action, especially where the safety of the public are concerned..

There will be a right of appeal to the Magistrates Court.

Any departure from this policy must be exceptional, capable of justification and be fully considered by relevant authorised officers before a decision is taken, unless officers feel that there is a significant risk to the public in delaying the decision.