

Draft Tonbridge and Malling Borough Council Hackney Carriage and Private Hire Licensing Policy

2013 – 2016

**Draft Version 1.5
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20 March 2013**

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Overview

1 Introduction

1.1 Adoption of private hire licensing provisions

1.2 Tonbridge and Malling Borough Council resolved to adopt the private hire licensing provisions contained in the Local Government (Miscellaneous Provisions) Act 1976 on 28 February 1991, such provisions taking effect on 1 November 1991. Since this date Tonbridge and Malling Borough Council has been the appropriate licensing authority within the borough of Tonbridge and Malling with responsibility for the regulation of private hire vehicles drivers and operators.

1.3 Process steps to develop this policy

Workshops with Councillors and members of the Taxi Trade:	August 2012
Draft consultation agreed at the Licensing and Appeals Committee	5 th December 2012
Public Consultation	10 th December 2012 until 1 st March 2013
Further workshops with Councillors and members of the Taxi Trade	January 2013
Licensing and Appeals Committee	20 th March 2013
Full Council adopt policy	16 th April 2013
New Policy comes into force	1 st May 2013

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1.4 Proposed changes

- 1.4.1 The main changes contained in this Hackney Carriage and Private Hire Taxi Policy 2013 – 2016 from the current version 2010 – 2013 are:
- 1.4.2 **Best Practice Guidance** – Consideration of the Department for Transport Taxi and Private Hire Vehicle Licensing Best Practice Guidance published on the 2nd March 2010.
- 1.4.3 **Probation Drivers Badge** - Detail the introduction of a new six months “probation driver’s badge” where a mentor from the Taxi trade works with the new driver.
- 1.4.4 **Age limits for licensed vehicles** - Detail the specification of Age limits for Hackney Carriage and Private Hire licensed vehicles.
- 1.4.5 **Colour of Hackney Carriage Vehicles** – Detail to tighten the colour specification for Hackney Carriage licenced vehicles.
- 1.4.6 **Signed Conditions for each applicant** – Requirement for each Private Hire Operator, Driver and vehicle applicant to read and sign the current conditions associated with each respective licence.
- 1.4.7 **Enforcement** – Detail of vehicle inspection criteria and standards required to work within the Borough.
- 1.4.8 **Penalty points** – Details of enhancements to the “penalty points” system to deal with breaches of licence conditions.
- 1.4.9 **Private Hire Exempt Licence** – Details of new criteria on which vehicles may apply for “exempt” status allowing them not to have to plate displayed on their **vehicle**.
- 1.4.10 **Private Hire Operators** - Licence each private hire vehicle individually associated with an Operator’s Licence as opposed to one Operator licence with four vehicles and an additional fee per vehicle after four.
- 1.4.11 **3 year Medical** – For all new drivers and every time a drivers badge is renewed an applicant is required to take a medical.

Overview

1.5 Overview of Licensing Hackney Carriages and Private Hire Vehicles

- 1.5.1 The key aim of licensing hackney carriages and private hire vehicles is to offers a flexible, multi-skilled resource (with high levels of knowledge and experience), embracing unified working practices exhibiting best working practice, whilst maintaining a high service delivery with excellent customer service
- 1.5.2 Hackney carriage and private hire vehicles have a specific role to play in an integrated transport system. They are able to provide services in situations where public transport is either not available or outside “normal” hours of operation such as in the evenings or at weekends or for those with mobility difficulties.
- 1.5.3 Hackney carriages and private hire licensed drivers undertake great numbers of school contracts with Kent County Council transporting young children, people with special needs and vulnerable adults.
- 1.5.4 Public safety is paramount consideration when processing prospective candidate by ensuring only fit and proper persons are licensed to be entrusted to drive members of the public safely, professionally and courteously to and from their required destinations.

1.6 Numbers of licences

- 1.6.1 The number of licences as of November 2012 are:
- 69 Private Hire Operators
 - 219 Private Hire Vehicles
 - 238 Private hire Drivers
 - 170 Hackney Carriage Vehicles
 - 165 Hackney Carriage Drivers
 - 70 Dual Drivers

1.7 Appraising the current Licensing Services for Taxis

- 1.7.1 In appraising the current licensing services for taxis the council has reviewed and made changes to people, process, technology and culture to ensure that we can deliver a first class customer service driven service.
- 1.7.2 Licensing Services works within a dynamic customer facing environment where we need to ensure that every applicant knows what is expected from them.

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1.8 Service Aims

1.8.1 The Licensing Services aims are to:

- To meet statutory responsibilities in a cost effective and responsible manner
- To provide a first class customer service delivery
- To support a strong night-time economy whilst ensuring residents have a good night sleep.

1.9 Legislative framework

1.9.1 This Statement of Licensing Policy is written pursuant to the powers conferred by the Town Police Clauses Act 1847 (as amended), and the Local Government (Miscellaneous Provisions) Act 1976 (as amended) which places on Tonbridge and Malling Borough Council (the “Licensing Authority”) the duty to carry out the function of licensing the hackney carriage and private hire trade.

1.9.2 In undertaking its licensing function, the Council will also have regard to other relevant legislation (and any legislation replacing or amending the same or any regulations made there under) including:

- Transport Act 1980;
- Transport Act 1985
- Road Vehicles (Constructions and Use) Regulations 1986;
- Crime and Disorder Act 1998;
- Environmental Protection Act 1990;
- Disability Discrimination Act 1995;
- Health Act 2006 and Smoke-free Regulations 2006/7;
- Legislative and Regulatory Reform Act 2006;
- Road Safety Act 2006;

1.10 Delegations

1.10.1 In accordance with paragraph 2.8 of Part 3 of the Constitution of Tonbridge and Malling Borough Council the Licensing Manager is authorised to exercise the delegated powers [detailed in Appendix O](#)

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2 Background to Policy

2.2 Delegations

- 2.2.1 Tonbridge and Malling Borough Council has traditionally exercised the responsibility of licensing hackney carriages and private hire vehicles through a number of different conditions and procedures that have been developed over a number of years.
- 2.2.2 The policy is revised every three years to reflect current working practices, legislative changes, new case law, local governance and needs of the community.

2.3 Best Practice Guidance

- 2.3.1 The Department for Transport (DfT) has national responsibility for hackney carriage and private hire legislation in England and Wales. As a result of the Office of Fair Trading producing its report on the UK hackney carriage and private hire trade, the DfT was asked to produce Best Practice Guidance for local licensing authorities.
- 2.3.2 The Best Practice Guidance was produced and first issued in October 2006. It is directed at local authorities in England and Wales who will “decide for themselves the extent to which they wish to make use of it or adapt it to suit their own purposes”.
- 2.3.3 The DfT in its revised 2010 Guidance has stated that many licensing authorities considered their licensing policies in the context of the Guidance. However, in order to keep their guidance up to date, they embarked on a revision. The key premise remains the same - that it is for individual licensing authorities to reach their own decisions both on overall policies and on individual licensing matters, in light of their own views of the relevant considerations.
- 2.3.4 This document interprets the DfT’s considered views about what constitutes “Best or Good Practice” in terms of hackney carriage and private hire licensing, together with local factors specific to this Borough.
- 2.3.5 The Council, in adopting this licensing policy recognises both the needs of residents for safe, convenient and effective taxi transport while facilitating a sustainable taxi industry and the importance of this provision to the local economy and vibrancy of the borough.
- 2.3.6 This Hackney Carriage and Private Hire Vehicle Licensing policy is also intended to ensure that both the trade and the public have a document that fully explains the licensing procedures in a clear and transparent manner.

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2.4 Council's key priorities

2.4.1 The Council sees the licensing process as an integral part to its approach to achieving its key priorities which for 2012 – 2015 are:

- Continued delivery of priority services and a financially viable Council
- A clean, smart, well maintained and sustainable Borough
- Healthy living opportunities and community well-being
- Children and young people who are safe, involved and able to access positive activities
- Low levels of crime, anti-social behaviour and fear of crime
- A continuing supply of homes, including affordable housing to buy and rent, and prevention of homelessness
- Sustainable regeneration of Tonbridge town centre and economic development in communities across the Borough

2.5 Objectives

2.5.1 In setting out its policy, Tonbridge and Malling Borough Council seeks to promote the following:

- i. the safety of the public and of licensed drivers;
- ii. the prevention of crime and disorder and protection of customers and drivers from being the victims of crime;
- iii. the provision of a professional and respected hackney carriage and private hire trade, by continued partnership working with the trade and also by monitoring and improvement of their required standards of service
- iv. vehicle safety and the provision of assistance with public access to an efficient and effective public transport service.

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

2.5.3 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. Applicants are therefore advised to read this policy carefully. Compliance with this policy is likely to assist the applicant to avoid the delay and expense of a hearing before the Licensing & Appeals Panel, and the risk of a refusal or the addition of unwanted licence conditions.

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- 2.5.4 This is not to say that an application which complies with the policy will necessarily be granted or one that does not will necessarily be refused. The licensing authority will always consider the merits of the case, and this policy is intended to act as a guide rather than a rule. However, the policy represents the Council's view of the best means of securing its licensing objectives in most normal cases, and it is intended to act as an aid to consistent decision making. It has been drawn up in consultation with the licensed trade, together with community stakeholders and other interested parties.
- 2.5.5 This policy helps to promote efficient and effective approaches to regulatory inspection and enforcement, which improve regulatory outcomes without imposing unnecessary burdens. This is also in accordance with the Regulator's Compliance Code. However, despite the existence of this policy, each application or enforcement measure shall be considered on its own merits.
- 2.5.6 In certain instances we may conclude that a provision in the policy or code is either not relevant or is outweighed by another provision. We will ensure that any decision to depart from the policy or code will be properly reasoned, based on material evidence and documented giving clear and compelling reasons for so doing.
- 2.5.7 The Council acknowledges that the current fleet of hackney carriages and private hire vehicles and drivers set a reasonable standard of appearance and performance however the Council seeks to raise the standard to make the Council proud of its fleet.
- 2.5.8 Whilst the number of occasions where suspension, revocation or prosecution are very rare, this Policy also emphasises the full range of enforcement options available should they be needed. Enforcement action taken is proportionate dependent on nature of the non compliance and each case will be considered on its own merits.

Definitions

3 Definitions

3.1 Throughout this document:

- **'The Council'** means Tonbridge and Malling Borough Council
- **'The Licensing Authority'** means Tonbridge and Malling Borough Council
- **"Authorised Council Officer"** means any officer of the Council authorised under the Council's Scheme of Delegation as contained in the Constitution
- **"This policy"** means Tonbridge and Malling Borough Council's Hackney Carriage and Private Hire Licensing Policy
- **'Vehicle'** or **'Licensed Vehicle'** means both a Hackney Carriage and Private Hire Vehicle
- **'Hackney Carriage'** means a vehicle licensed under the Town Police Clauses Act 1847 to ply for hire throughout the district controlled by the Council.
- **'Private Hire vehicle'** means a vehicle licensed under the Local Government (Miscellaneous Provisions) Act 1976 to carry passengers for hire or reward by prior booking.
- **'Private Hire Operator'** means a person who makes provision for the acceptance of Private Hire bookings to undertake themselves or pass to others to undertake
- **'The DfT'** means the Department for Transport, including previous names under which that department has been known
- **'The DoT Guidance'** means The Department for Transport – Hackney Carriage and Private Hire Vehicle Licensing: Best Practice Guidance published in February 2010.
- **"DVLA"** means the Driver and Vehicle Licensing Agency
- **"ECMT-IRU"** means the European Conference of Ministers of Transport and the International Road Transport Union
- **'The Committee'** means the Licensing and Appeals Committee of the Council
- The term **'DVLA driving licence'** means a full original GB driving licence **issued by the Driver and Vehicle Licensing Agency.**
- The term **'Proprietor'** means the owner of the licensed vehicle – this may not necessarily be the driver of the vehicle

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4.1 Limitation of Numbers

- 4.1.1 The Council does not set a limit on the number of hackney carriages which it licences.
- 4.1.2 No powers exist for licensing authorities to limit the number of private hire vehicles which they licence.
- 4.1.3 The present legal provisions on quantity restrictions for hackney carriage vehicles are set out in section 16 of the Transport Act 1985. This provides that the grant of a hackney carriage licence may be refused, for the purpose of limiting the number of licensed hackney carriages

“if, but only if the Local Authority is satisfied that there is no significant demand for the services of hackney carriages (within the area to which the licence would apply) which is unmet”.

In the event of a challenge to a decision to refuse a licence on these grounds, it would, therefore, have to be established that the authority had been reasonably satisfied that there was no significant unmet demand.

4.2 Vehicle Specifications

- 4.2.1 Licensing Authorities have a wide range of discretion over the types of vehicle that they can licence as hackney carriages or private hire vehicles.
- 4.2.2 The Best Practice Guidance suggests that local Licensing Authorities should adopt the principle of specifying as many different types of vehicle as possible. Authorities are encouraged to leave it open to the trade to put forward vehicles of their own choice which can be shown to meet basic criteria. In that way, emerging new designs for vehicles can be readily taken into account.
- 4.2.3 The Council is empowered to impose such conditions, as it considers reasonably necessary, in relation to the grant of a hackney carriage or private hire vehicle licence. Hackney carriages and private hire vehicles provide a necessary service to the public, so it is appropriate to set standards for the external and internal condition of the vehicles, provided that the standards are reasonable and proportionate.
- 4.2.4 Appendix A sets out the minimum standards of vehicle specification that apply in respect of all licensed vehicle applications in this Authority. All holders of a Vehicle licence are required to read through and sign two copies which are countersigned by the Licensing Manager or Licensing Officer, one copy being kept by the licence holder and one copy kept with the licence holders file. These signed conditions will be referred to where there are incidents of non-compliance.

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4.3 Accessibility

4.3.1 The Council is committed to social inclusion and ensuring a wide variety of opportunities is available to those with mobility difficulties in order to enjoy a high quality of life. It fully supports the view of the Equality and Human Rights Commission that,

“Making successful journeys is critical to the social inclusion of disabled people. Without the ability to travel, disabled people are denied access to life opportunities. Their access to education, shopping, employment, healthcare, as well as social and family life is significantly improved when journeys become accessible”.

4.3.2 For this reason, the Council considers it important that people with disabilities have access to all forms of public transportation and will keep this section of the policy under review through periodic Disability Impact Assessments.

4.3.3 Drivers who, for medical reasons are unable to accept wheelchair passengers, or guide/hearing dogs are able to apply to the Council for an exemption certificate. Such a certificate will only be issued on production of medical evidence. Exemption certificates, which show the photograph of the driver, must be displayed in the vehicle at all times the driver is working.

4.3.4 It is arguable that different accessibility considerations should apply between hackney carriages and private hire vehicles in that hackney carriages can be hired in the street or at a rank, by the customer dealing directly with a driver. Private hire vehicles, however, can only be booked through an operator. It is considered particularly important that a person with a disability should be able to hire a hackney carriage with the minimum delay or inconvenience. The Council will, therefore, actively encourage the licensing of sufficient accessible vehicles and have regard to the requirements of the Equality Act 2010.

4.3.5 The private hire trade should, however, be aware of a good practice guide produced by the Equality and Human Rights Commission, as private hire operators also have a duty under the Equality Act 2010 to ensure disabled people are not discriminated against or treated less favourably.

4.4 Road Tax

4.4.1 All vehicles must comply with the Vehicle Excise & Registration Act 1994 (S29) requirement to have and display an appropriate tax disc for the vehicle class. Failure to have road tax will result in suspension of the licence until the vehicle is taxed.

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4.5 Environmental Considerations

- 4.5.1 The Best Practice Guidance asks licensing authorities to consider how far their vehicle licensing policies can and should support any local environmental policies that they have adopted, bearing in mind the need to ensure that the benefits outweigh costs (in whatever form). They suggest that authorities may, for example, wish to consider setting vehicle emissions standards, perhaps by promoting cleaner fuels.
- 4.5.2 It is considered that efforts should be made, through the licensing policy, to improve, as far as possible, the efficiency of vehicles licensed in the borough by, in particular, reducing the levels of CO2 emitted. There is a movement towards the use of alternative fuels and in many areas LPG conversions to vehicles are perfectly acceptable and encouraged. This will, however, be dependent of supplies of such fuel being made readily available. It may also be the case that the installation of storage tanks into vehicles may affect the ability to carry luggage.
- 4.5.3 Clearly emissions from hackney carriages and private hire vehicles could be reduced further, by encouraging better maintenance of vehicles and by switching off engines when stationary or idling, particularly at hackney carriage ranks. It is proposed that this aspect be tackled through education and promotion.

4.6 Vehicle age and other criteria

- 4.6.1 When first licensed, all vehicles must be less than six years old from the date of first registration.
- 4.6.2 Saloon, estate, hatchback, or multi-passenger type hackney carriages/private hire vehicles, may be licensed for a maximum of ten years from the date of first registration, subject to six-monthly testing by one of the Council's authorised garages. Each six-monthly test requires the vehicle to obtain a "Compliance Pass Certificate".
- 4.6.3 **" Fully Wheel Chair Compliant vehicles (Mi specification)" may be licensed** to a maximum of fifteen years old from the date of first registration, subject to six-monthly testing by the Council's authorised garage. Each six-monthly test requires the vehicle to obtain a "Compliance Pass Certificate" from one of the Council's nominated garages.
- 4.6.4 The physical condition of a licensed vehicle is an important criteria used when assessing the suitability of a vehicle. In exceptional circumstances a licence may not be renewed if the physical condition of the vehicle is not of a suitable standard despite having passed a MoT test. The twice yearly compliance check includes the checking of upholstery, roof lining and bodywork to ensure the vehicle is of the required standard.

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- 4.6.5 Hackney carriage and private hire vehicles (including stretch limousines vehicles) are subject to both legislative and locally imposed conditions. **These combined conditions can be found in appendices A and B respectively.**

Vehicle	Age Criteria
Licensing a vehicle for the first time	Must be less than six years old from the date of first registration.
Saloon, estate, hatchback, or multi-passenger	ten years from the date of first registration
Fully Wheel Chair Compliant vehicles	fifteen years from the date of first registration
Wheelchair accessible approved by the Council	fifteen years from the date of first registration
Limousines	There will be no age restriction on licensing limousines

- 4.6.6 In order to allow existing licence holders an appropriate period of time to meet these new age requirements, they shall be introduced as follows
- With effect from **1 June 2013** any new hackney carriage/ private hire vehicles submitted for licensing must comply with the above age requirements.
 - With effect from **1 June 2015** all hackney carriage/ private hire vehicles submitted for licensing (new and renewal) must comply with the above age requirements.

4.7 Vehicle Testing and Inspections

- 4.7.1 **An MOT pass certificate, from an inspection carried out by one of the authorised testing stations located within the Borough, must be produced for all vehicles. Subsequent MOT pass certificates must be produced annually.**
- 4.7.2 In addition to the MOT testing, the vehicle must also be mechanically tested and inspected by the Council's nominated garage. This process is referred to as acquiring a "Compliance Certificate". When required to produce an MOT pass certificate, a "Compliance Certificate" pass certificate must also be produced.

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- 4.7.3 A vehicle is required to be re-examined, when the licence has been in force for six months, to ensure that it continues to meet the standards referred to above.
- 4.7.4 A reminder to have the vehicle tested is sent out four weeks prior to the test being required and the operators then make their own arrangement to have the vehicle tested. If the test is successful the operator is issued with documentation allowing them to collect their vehicle plate.
- 4.7.5 The number of approved testing stations be a minimum of six, all strategically positioned within the Borough and that the cost of the MoT test and compliance be determined by the provider.
- 4.7.6 The Authority may undertake its own programme of inspections between formal MOT tests, where an Officer is unsure as to a vehicle's compliance. The vehicle will be referred to the Council's nominated testing station for a formal assessment. Where the testing requirements are not met, the Officer may either agree a period of time for ratification and re-inspection, or suspend the vehicle until rectification and re-inspection has occurred. The test will be at the Proprietor's expense.

4.8 Insurance

- 4.8.1 There shall be a policy of insurance, or such security as complies with the requirements of Part IV of the Road Traffic Act 1972, during the duration of the vehicle licence. Under no circumstances will a vehicle licence be issued or renewed without proof that this section has been complied with.
- 4.8.2 The registered owner of the licensed vehicle shall ensure that it is adequately insured to the satisfaction of the Council and all relevant legislation at all times that it is available for the carrying of passengers.
- 4.8.3 At any time when the requirements of this section of the Policy have not been satisfied, the vehicle licence will automatically be suspended until such time as adequate insurance has been obtained.

4.9 Vehicles involved in an accident

- 4.9.1 Any licensed vehicle involved in an accident must be inspected by an authorised licensing officer to ensure the vehicle is roadworthy to continue operations. If a vehicle is taken off road for repair, there is an option to obtain a temporary licence for the accident replacement vehicle. This temporary vehicle will be subject to the same MoT and compliance requirements as the vehicle that it is replacing.

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4.10 Signage

- 4.10.1 Within the Borough of Tonbridge and Malling both hackney carriages and private hire vehicles are required to **permanently display** licence plates externally on the rear of the vehicle.
- 4.10.2 This is a key feature in helping to identify vehicles that are properly licensed. The plate details Tonbridge and Malling Borough Council as the Licensing Authority, the vehicle make, model, colour and registration mark, the number of passengers the vehicle can carry and the expiry date of the licence.
- 4.10.3 In addition to the external plate all vehicles must display a small internal plate containing the same details as the external plate. This plate can be read from both inside and outside of the vehicle and must be positioned at the top of the front nearside corner of the windscreen.
- 4.10.4 Hackney carriage vehicles are required to display permanently affixed signage to the front side doors of the vehicle. This signage contains the Council logo and the words "Tonbridge & Malling Borough Council" and "TAXI" and shows plate number.
- 4.10.5 Private Hire Vehicles to have an A4 size landscape transfer "Pre Booked Only" and showing plate number..
- 4.10.6 Under certain circumstances a private hire vehicle operator may make a plate exemption application. This is normally made by operators involved in chauffeur work or work of an exclusive nature. If granted this absolves the operator from the requirement to display both the internal and external licence plates. In these circumstances plates will still be issued and should be carried within the vehicle, together with a signed notice of exemption.
- 4.10.7 Before any plate exemption notice is issued, the operator must satisfy the licensing officer that such an exemption would be integral to his business.
- 4.10.8 All hackney carriage vehicles, except those with built-in roof signs must carry illuminated roof-mounted sign indicating that they are a taxi and these must be lit when plying for trade. In order to differentiate between the two types of licensed vehicle, private hire vehicles must not carry roof-mounted signs of any kind, and they must have no signs (roof-mounted or otherwise) using the words "Taxi", "Hackney", "Cab", or "For hire".

4.11 Advertising

- 4.11.1 No external third party advertising will be permitted on any hackney carriage or private hire vehicle.
- 4.11.2 Limited advertising giving details concerning the proprietor's or operator's private hire business will be permitted, but this will be strictly controlled so that confusion between private hire and hackney carriage vehicle is kept to the minimum.

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4.12 Security and Closed Circuit Television (CCTV)

- 4.12.1 The hackney carriage and private hire trade provides a valuable public service, especially late at night when other forms of public transport are no longer available. Security for drivers and passengers is of paramount importance. CCTV cameras can be a valuable deterrent as well as protecting the driver from unjustified complaints.
- 4.12.2 It is not proposed that measures such as CCTV cameras should be required as part of the licensing regime, as it is considered that they are best left to the judgement of the owners and drivers themselves. The hackney carriage and private hire vehicle trade is, however encouraged to consider the installation of CCTV cameras in their vehicles on a voluntary basis and it will then be incumbent upon the operator to handle relevant data gathered in an appropriate and secure manner. For information and guidance on data protection see Information Commissioners Office (ICO) website <http://www.ico.gov.uk/>.
- 4.12.3 The hackney carriage and private hire trade are also encouraged to build good links with the local police force, including participation in any Crime and Disorder Reduction Partnerships.

4.13 Stretch Limousines

- 4.13.1 Stretched limousines are elongated saloon cars that are more frequently being used for mainstream private hire work. The number of stretched limousines being imported, particularly from the United States, has been increasing. Their use generally includes all private hire work plus special occasions such as days at the races, stag/hen parties and children's birthday parties.
- 4.13.2 For the purpose of this policy and licence conditions a stretch limousine is defined as follows:
- A stretch limousine is a motor vehicle that has been lengthened by the insertion of an additional body section and modified by a coachbuilder to contain luxury facilities and fixtures;
 - that is capable of carrying up to but not exceeding 8 passengers; and
 - that is not a decommissioned military or emergency service vehicle.
- 4.13.3 Most limousines are imported for commercial purposes and are, therefore, required to take an Individual Vehicle Approval (IVA) test. They cannot be approved as Passenger Carrying Vehicles (PCV) because they cannot meet the required standards for the door arrangements and means of escape in an emergency.

The IVA Scheme is an Inspection Scheme for vehicles that are not approved to British and European Standards and its purpose is to ensure that these vehicles meet modern safety standards and environmental standards before

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being used on public roads. When presented for an IVA test the vehicle is produced with a declaration that it will never carry more than eight passengers.

The importer must inform any person who may use it of its restriction. Any subsequent purchasers must also be informed of the restriction.

4.13.4 The Local Government (Miscellaneous Provisions) Act 1976 defines a private hire vehicle as a motor vehicle constructed or adapted to carry fewer than nine passengers, other than the hackney carriage or public service vehicle, which is provided for hire with the services of a driver for the purposes of carrying passengers. Section 48 of the 1976 Act requires that before a licence is granted the Authority must be satisfied that the vehicle is:

- suitable in type, size and design for the use as a private hire vehicle;
- not of such design and appearance as to lead any person to believe that the vehicle is a hackney carriage;
- in a suitable mechanical condition;
- safe; and
- comfortable.

4.13.5 Stretched limousines can be licensed for private hire work providing they may carry no more than eight passengers and meet the requirements of the Act. Possible exemptions under the Local Government (Miscellaneous Provisions) 1976 Act provide that nothing shall:

apply to a vehicle used for bringing passengers or goods within a controlled district in pursuance of a contract for the hire of the vehicle made outside the district if the vehicle is not made available for hire within the district;

apply to a vehicle while it is being used in connection with a funeral or a vehicle used wholly or mainly, by a person carrying on the business of a funeral director, for the purpose of funerals;

apply to a vehicle being used in connection with a wedding.

4.13.6 Any stretched limousines, which are offered for private hire or which are not used for funeral and weddings do, or course, require a licence. Some operators of these vehicles have a wedding car licence insurance policy on the basis that the vehicle will be used largely during daylight hours, once or twice per week. Before licensing for private hire, therefore, a full insurance policy for private hire purposes will be required.

4.13.7 All bookings for a stretch limousine licensed as a private hire vehicle by the Council must be booked through a private hire operator licensed by Tonbridge and Malling Borough Council in accordance with S55 of the Local Government (Miscellaneous Provisions) Act 1976.

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4.13.8 In accordance with the Guidance, all applications to licence stretch limousines as private hire vehicles will be treated on their merits. The Council strongly recommends that anyone wishing to licence a limousine contacts the licensing authority before purchasing a vehicle to ensure that advice can be provided as to whether the vehicle will meet the required standards.

4.13.9 Because these vehicles will not meet the usual vehicle specification, additional documentation and inspection will be needed in order that the Council's responsibility to ensure safety and suitability, prior to a licence being issued, can be met. Imported stretch limousine type vehicles will:

- be granted an exemption from the requirement under the conditions of licence for private hire vehicles to be right hand drive;
- be authorised as prestige type private hire vehicles; and
- be approved for licensing as private hire vehicles subject to meeting the specified criteria and additional conditions detailed in Appendix A

4.13.10 It would be an offence under the Licensing Act 2003 to provide facilities for the sale of alcohol within a limousine. If the limousine is to be provided whereby part of the booking includes "free alcohol", the premises which accepts the booking and supplies the alcohol within the vehicle would need an appropriate licence under the Licensing Act 2003, otherwise a criminal offence would be committed.

4.14 Contract Vehicles

4.14.1 Previously, under Section 75(1) (b) of the Local Government (Miscellaneous Provisions) Act 1976 there was no requirement for a vehicle to be licensed where it was used for a contract with an organisation/firm for a period of more than seven days for carrying passengers for hire or reward under a contract for the hire of the vehicle. This exemption only applied to the vehicle and driver subject to the contract and then only during the period of the contract. Any vehicles being used for a contract with one firm could not be used for any other contract or purpose during the period of that contract.

This exemption has been repealed by provisions contained within the Road Safety Act 2006 that became effective in January 2008 and thus vehicles which previously took advantage of this exemption will now have to become licensed private hire vehicles.

4.14.2 The Department for Transport website gives details of the guidance notes on what is, and what is not, a private hire vehicle.

<http://www.dft.gov.uk/publications/phv-guidance-note/>

Vehicles

4.15 Funeral Vehicles

- 4.15.1 There is no requirement for a vehicle to be licensed where it is being used in connection with a funeral or is being wholly or mainly used by a person carrying on the business of a Funeral Director for the purpose of funerals.

4.16 Wedding Vehicles

- 4.16.1 A vehicle does not need to be licensed while it is being used in connection with a wedding. For clarity, the exemption applies only to services directly relating to the wedding service itself, for example transporting the bride and/or groom to the wedding service, from the service to the reception and from the service/reception to home. Transporting the married couple to other locations such as the airport would be considered to be a licensable activity.
- 4.16.2 Written certification from the Council of the relevant exemption claimed is not currently required and it is not proposed to change this arrangement.

4.17 Courtesy Cars

- 4.17.1 All vehicles with not more than 8 passenger seats carrying passengers for hire and reward must be licensed by the Local Authority. Although there has been some legal debate regarding this particular issue, current case law supports the view that vehicles which are used as 'courtesy cars', i.e. for transporting customers to and from hotel, night-clubs, etc are being provided for hire and reward in the course of business, irrespective of whether or not a charge is made for such service. They should be licensed accordingly.
- 4.17.2 Those operating 'courtesy cars', e.g. for transporting customers to and from hotels, night-clubs, etc should have an operator's licence and drivers must be appropriately licensed. All three licences (operator, vehicle and driver) must be from the same Licensing Authority.

4.18 Ambulances and Other Patient Transport

- 4.18.1 **Ambulances** - Whilst having respect to the Department for Transport guidance "genuine ambulances" will be exempt from private hire vehicle licensing:

"emergency/specialist ambulance vehicles – likely to accommodate a stretcher and specialist equipment, and to require the presence of health professionals."

4.19 Other Patient Transport -

- 4.19.1 *"vehicles which operate as part of a formal Patient Transport Service – usually non-emergency, planned transport of patients, where the booking will only be made if the person to be carried has been assessed by a health professional as having a medical need for transport; these vehicles will be contracted to a health care provider and cannot be used for "social" hirings;"*

Vehicles

- 4.19.2 Other patient transport services provided by Primary Care Trusts, or Voluntary services, that do not qualify for exemption will require licensing as a private hire vehicle

4.20 Voluntary Sector Transport

- 4.20.1 The Council will assess each individual organisation on its own merits to determine whether or not it will require licensing as a private hire business. Whilst it is clear that the organisation is providing a service, it is less clear that such provision can be defined as operating a private hire business.
- 4.20.2 The Council will, however, seek to enforce against unlicensed businesses where it can be proven that the business obtains a benefit and the Council considers that private hire vehicle licensing is necessary.

4.21 Novelty (Speciality) Vehicles

- 4.21.1 There is currently no provision in the policy to licence other categories of specialised vehicles (i.e., fire engines, tanks, classic cars etc); however this will not preclude the option of licensing novelty /speciality vehicles should an application be received.

4.22 Motorbikes

- 4.22.1 There is currently no provision in the policy to licence motorbikes, however this will not preclude the option of licensing motorbikes at a later date.

4.23 Livery

- 4.23.1 Hackney carriage vehicles must be white or bright silver
- 4.23.2 Private hire vehicles can be any colour,

4.24 Application Procedure

- 4.24.1 The application procedures for a hackney carriage or private hire vehicle licence are prescribed by the Council. The Council requires that application must be made on a specified application form in accordance with application procedures set out in APPENDIX C.

4.25 Consideration of Applications

- 4.25.1 The Council will consider all applications on their merits once it is satisfied that the appropriate criteria have been met and the application form and supporting documents are complete.

Vehicles

4.26 Grant and Renewal of Licences

- 4.26.1 The Guidance makes no recommendations in respect of the duration of hackney carriage or private hire vehicle licences, and legislation limits the maximum period of such licences to 12 months.
- 4.26.2 Hackney carriage or private hire vehicle licences will thereby continue to be issued for a one-year period from the date of grant, subject to the power to grant a licence for a shorter period, should this be appropriate in the circumstances.
- 4.26.3 Council officers will normally send a reminder letter to the current taxi proprietor or operator one month before the existing licence expires in order to assist applicants in their prompt submission of re-licensing applications. However, the obligation remains on the licence holder to ensure a renewal application is submitted in good time.
- 4.26.4 When submitting renewal applications, applicants should be aware that it may take up to five working days to process and issue a licence once all the necessary paperwork has been received. If the licence has not been issued at the point when an existing licence expires, the licence holder must cease operating until the new licence has been received.
- 4.26.5 A vehicle licence is issued to a specified vehicle, therefore, at the end of the vehicle's licensed period that particular licence ceases to exist and any new vehicle would be subject to the requirements of a new vehicle application.

5 Drivers

5.1 Licences

5.1.1 This Council issues hackney carriage and private hire licences as well as an optional six months probationary badge for new drivers, which allows people new to the taxi working environment to experience working as a taxi driver at a lower fee entry and assess if this is the right career choice for them.

5.1.2 The probationary badge requires:

- A person from the taxi trade known as a “Mentor” to sign the application form and oversee the new driver as they work through their first six months. **A “Mentor” needs to have been licensed by Tonbridge and Malling Borough Council for at least a period of one year.**
- All applicants will still be required to complete all statutory checks prior to being issued with a probationary badge.
- After six months the Mentor and Licensing Officer will review the probationary badge holder performance and conduct prior to renewing the probationary badge to a full three year driver’s licence.
- Hackney Carriage probationary badge holders will be required to complete the knowledge test after six months.

5.1.3 The statutory and practical criteria and qualifications for a private hire driver are broadly identical to those for a hackney carriage driver. The sections below, therefore, apply equally to private hire and hackney carriage drivers.

5.2 Age and Experience

5.2.1 **A licence to drive a hackney carriage or private hire vehicle will not be granted to a person who has not held a full driving licence, for a period of at least 12 months immediately prior to the licence application.**

5.2.2 An applicant who meets the licensing requirements by virtue of an acceptable non-UK driving licence must either:

Obtain a full UK driving licence within twelve months of the issue of the hackney carriage/private hire drivers licence, or

Obtain a backing sheet from the DVLA within twelve months of the issue of the hackney carriage/private hire drivers licence, which can be attached to the non-UK driving licence and used by the DVLA to monitor penalty points obtained whilst driving in the UK

5.2.3 Where this requirement is not satisfied, the hackney carriage/private hire drivers licence will be automatically suspended pending compliance.

Drivers

5.3 Driver Knowledge Tests

- 5.3.1 Drivers clearly need a good working knowledge of the area for which they are licensed. The DoT recognises that most authorities require prospective drivers to pass a test as to their knowledge of the local geography (known locally as the Knowledge Test) as a condition of first grant of a licence. This test will also test the driver's knowledge of the Council's Licensing Policy as well as basic knowledge of hackney carriage and private hire law.
- 5.3.2 The procedures in relation to the above are set out in APPENDIX F.

5.4 Driving Proficiency and Qualifications

- 5.4.1 The Driving Standards Agency (DSA) first introduced a practical driving test specifically designed for hackney carriage and private hire drivers in 1999. Many authorities require the aforementioned DSA test, or some further driving test, to be taken before a driver's licence is issued.
- 5.4.2 The Council believes that as a profession, hackney carriage and private hire drivers have a special responsibility for the safe transportation of fare-paying passengers. An assessment of a driver's ability should, therefore, be obtained by all new applicants.
- 5.4.3 All new applicants for hackney carriage/private hire driver's licences are required to produce evidence that they have successfully completed the DSA or **Kent County Council (KCC)** practical driving test.

5.5 Medical Examination

- 5.5.1 The DfT recognises that it is clearly good practice for medical checks to be made on each driver as a condition for the initial grant of a licence and subsequent renewal. The Council has adopted the relevant DVLA medical standard i.e. Group 2. This is the standard applied to the licensing of lorry and bus drivers and is considered to be best practice.
- 5.5.2 A medical examination by a General Practitioner, to assess an applicant's fitness to drive a licensed vehicle, is required before a licence may be granted. A DVLA Group 2 Standard of medical fitness for professional drivers will be required.
- 5.5.3 A request form for a medical examination, which may be presented to the applicant's GP, is obtainable from the Council. The applicant will be responsible for paying the fee for the examination to the relevant surgery. On completion of the examination, the report must be submitted to the Council.
- 5.5.4 Existing licence holders, having presented a medical certificate upon first being granted a licence, will be required to be re-examined before the renewal of the drivers licence, every three years. Drivers of 65 and over must be examined annually. More frequent checks will also be necessary if, in the opinion of the medical practitioner, it is necessary.

Drivers

5.5.5 Licence holders must advise the Council of any deterioration in their health that may affect their driving capabilities. For the avoidance of doubt, the following medical conditions must be notified to the Council as soon as reasonable practicable; however, this list is not exhaustive:

- Any heart-related condition;
- Abnormal blood pressure;
- Diabetes (Type 1 or Type 2);
- Epilepsy;
- Sudden attacks of giddiness or fainting;
- Conditions causing excessive daytime sleepiness such as sleep apnoea;
- Alcohol or drug dependency;
- Double vision or vision disorder
- Mental or psychological disorders; or
- Any other condition that may affect the ability to drive.

5.5.6 Where there is any doubt as to the medical fitness of the applicant, the Council may require the applicant to undergo further medical examination by a Doctor appointed by the Council. This will be at the applicant's own expense.

5.5.7 Where there remains any doubt about the fitness of any applicant, the Council will review the medical evidence and make any final decision in the light of the medical evidence available.

5.5.8 The format of the medical examination will be that prescribed by the standard Group 2 DVLA form issued. This form is available from Licensing Services on payment of the fee.

5.6 Disclosure and Barring Service

5.6.1 The Disclosure and Barring Service (DBS) was formally known as the Criminal Records Bureau (CRB) before the 1st December 2012. The DBS was formed after the CRB merged with the Independent Safeguarding Authority (ISA).

5.6.2 A Disclosure and Barring Service check on a driver is seen as an essential safety measure in assessing whether or not an applicant is suitable to hold a licence. An Enhanced Disclosure provided by the Disclosure and Barring Service is required from all applicants, whether new or renewal applications. These disclosures include details of spent convictions and police cautions.

5.6.3 The Rehabilitation of Offenders Act 1974 does not apply to applicants for Hackney Carriage/Private Hire driving licences. They are required to disclose all convictions, including those that would normally be regarded as spent.

5.6.4 Before an application for a driver's licence will be considered the applicant must provide a current (less than 3 months old) Enhanced DBS Disclosure Certificate. The applicant will be responsible for payment of the appropriate fee.

Drivers

- 5.6.5 A DBS Disclosure must be obtained and submitted by a licensed driver to the Council at least every 3 years in time for the renewal of the driver's licence. Licensed drivers are obliged to report all new convictions, official cautions and fixed penalty notices immediately to the Council.
- 5.6.6 The licence or renewal is conditional upon there being no adverse information revealed on the DBS disclosure that would render the applicant not 'fit and proper'. Council officers will normally send a reminder letter to the current taxi proprietor or operator, one month prior to the licence expiry to allow time for return of the DBS check prior to the licence expiry date. If the licence is issued (which would only be under exceptional circumstances) and relevant information is later revealed on a disclosure certificate then that licence will be subject to review and possible revocation.
- 5.6.7 The Council may request another disclosure at any time if a further check is considered necessary. In the case of the requirement for an additional DBS check, the Council must have good reason prior to making this request, for example, reasonable belief that the licence holder has a criminal conviction not notified to the Council.
- 5.6.8 The Council is bound by rules of confidentiality and will not divulge information obtained to any third parties. The applicant for a DBS check will be sent a separate certificate to their home address, while the Council will also receive a copy of the report. Information arising from disclosures will be kept on file only for as long as necessary.
- 5.6.9 Information received from the Disclosure and Barring Service will normally be destroyed after 1 month.

5.7 Relevance of Convictions and Cautions

- 5.7.1 A guide to the relevance of previous convictions, cautions and fixed penalty notices is in APPENDIX D.
- 5.7.2 The Council will consider each application on its merits once the appropriate tests have been undertaken and the application form and supporting documents are complete.
- 5.7.3 In assessing whether the applicant is a "fit and proper" person to hold a licence the Council will consider each case on its merits. It will take account of cautions, convictions, and fixed penalty notices whether spent or unspent, but only in so far as they are relevant to an application for a licence. Upon receipt of a licence application the Licensing Officer will assess from the information provided whether any or all of the current or spent convictions are capable of having significant relevance as to whether the applicant is a fit and proper person to hold a licence and, refer to the Licensing and Appeals Panel for decision.
- 5.7.4 In relation to cautions the Council will have regard to the class and age of the offence and the age of the applicant when the offence occurred when considering their relevance to an application.

Drivers

- 5.7.5 In relation to previous convictions the Council will have regard to the following:
- whether the convictions are spent or unspent;
 - the class of the offences;
 - the age of the offences;
 - the apparent seriousness, as gauged by the penalty.
- 5.7.6 Without prejudice to the general right to refer any application to the Panel, applications will be referred to the Licensing and Appeals Panel where the applicants record includes one or more of the following:
- Any term of imprisonment or custody;
 - Any conviction for a violent or sexual offence, or dishonesty;
 - Any serious motoring offence, such as dangerous driving, driving whilst disqualified, or drink driving;
 - Any drug-related offence; or
 - Any combination of less serious offences where the Licensing officer is not minded to grant the application
 - More than six points on their licence.
- 5.7.7 Where applicants have recently been living in another country, an Enhanced DBS check will still be required, although this will be of limited value. Therefore, in addition the applicant must produce a Certificate of Good Conduct, or equivalent document, issued and authenticated by the appropriate embassy or a statutory declaration of absence of convictions, signed by a solicitor.
- 5.7.8 A DVLA driver endorsement check will be required upon applications for new or renewal of a driver licence, to ensure that the information held by the DVLA is in accordance with the information submitted by the applicant. The fee for the endorsement check will be incorporated into the application fee.
- 5.8 Grant and Renewal of Licences**
- 5.8.1 An application for a hackney carriage or private hire driver's licence must be made on the specified application form. Drivers' licences are normally granted for a period of three years. However there may be occasions when a licence is granted for a shorter period upon application, for example, when the applicant intends to retire before the end of the three year licence period.
- A driver may apply for a six months "probation driver's badge" where a mentor from the Taxi trade works with the new driver.
- 5.8.2 The application procedure is set out in APPENDIX C.

Drivers

- 5.8.3 Council officers will normally send a reminder letter to the current taxi proprietor or operator, one month prior to the licence expiry in order to assist applicants in their prompt submission of re-licensing applications.
- 5.8.4 Applicants need to submit the application to renew the licence at least one week prior to the licence expiry to ensure that the licence is renewed on time. Officers may only accept complete applications comprising all the necessary paperwork. If an application is received late the applicant may be unlicensed for a period of time during which they will be unable to work as a licensed hackney carriage or private hire driver.
- 5.8.5 The licence fees payable are subject to periodic review. Whilst the fees are set by the Licensing Authority they will be published in a local newspaper at least 28 days prior to the proposed operational date, for constructive comment. They will also be published together with other Council licensing fees in the Fees & Charges document and on the Council's website under the licensing link.

5.9 Conditions of Licence

- 5.9.1 The Licensing Authority is not empowered to attach conditions to a hackney carriage driver, other than through Byelaws.
- 5.9.2 The Licensing Authority is empowered to attach such conditions to a private hire driver's licence as are considered necessary. The standard conditions applied to all private hire drivers are set out in APPENDIX G.
- 5.9.3 In accordance with the above, the penalty point system detailed in APPENDIX H is not a condition of licence. It is, however, a transparent and consistent method for the Council to determine whether or not a driver meets the 'fit and proper person' test.

5.10 Code of Good Conduct

- 5.10.1 The standards expected of licensed drivers are set out in the Code of Good Conduct, included in this policy document at APPENDIX I
- 5.10.2 Failure to comply with any aspect of the Code of Good Conduct may result in enforcement action. However, breach of the Code of Conduct is an indicator which officers will use to help decide upon subsequent enforcement action. This may result in advice or warnings being given by an authorised officer.
- Repeated breaches following such advice or warnings may lead to more serious consequences including, if necessary, non-renewal, suspension or revocation of licences.
- 5.10.3 It is considered that in order to raise the profile of the licensed trade, drivers should should operate at all times in a professional manner and dress so as to present a professional image to the public.

6 Private Hire Operators

6.1 Operators

- 6.1.1 Any person who operates a private hire service utilising one or more private hire vehicles must apply to the Council for a Private Hire Operator's Licence.
- 6.1.2 The primary objective in licensing private hire operators is the safety of the public, both in the vehicles and at the operator's premises.
- 6.1.3 A private hire vehicle may only be despatched to a customer by a private hire operator who holds a private hire operator's licence. Such a licence permits the operator to make provision for the invitation or acceptance of bookings for a private hire vehicle.
- 6.1.4 A private hire operator must ensure that every private hire vehicle is driven by a person who holds a private hire driver's licence.
- 6.1.5 All three licences detailed below must be issued by the same Licensing Authority:
- Private hire operator's licence;
 - Private hire driver's licence;
 - Private hire vehicle licence.
- 6.1.6 Applications for an operator's licences must be made on the prescribed form, together with the appropriate fee. The Council will then decide whether the applicant is a fit and proper person to hold an operator's licence.

6.2 Hackney Carriage

- 6.2.1 Individual Hackney Carriage drivers operating under their own or a trading name as a sole trader are not required to hold a Private Hire Operator's Licence.

6.3 Disclosure and Barring Service Checks

- 6.3.1 Private hire operators that are not licensed drivers are not required to produce an enhanced DBS disclosure. A Basic Disclosure from the Disclosure and Barring Service, or a certificate of good conduct from the relevant embassy for overseas applicants is required, as this is considered appropriate in promoting the objective of public safety.
- 6.3.2 References from non family members can also provide some assurance of the suitability of the applicant's character and ability to hold an operator's licence covering, for example, the applicant's financial records and/or business history; therefore all applications will require two references on the initial application.

Private Hire Operators

6.4 Conditions

- 6.4.1 The Council has the power to impose such conditions on an operator's licence as it considers reasonable, necessary and proportionate. The conditions set out in APPENDIX J are those considered to be reasonably necessary.

6.5 Record Keeping

- 6.5.1 Requiring operators to keep records of each booking, including the name of the passenger, the destination, the name of the driver and the number of the vehicle is accepted as good practice. This would, for example, enable the Licensing Officer or police with any future investigations.
- 6.5.2 Operators must keep records in respect of all bookings, vehicles and drivers for a period of one year. **Full details in Appendix J**
- 6.5.3 Such records are to be made available to any authorised officer of the Council or a police officer upon request.

6.6 Insurance

- 6.6.1 It is considered appropriate for a Licensing Authority to check that appropriate public liability insurance has been taken out for premises that are open to the public.
- 6.6.2 Before an application for a private hire operator's licence is granted, the applicant must produce evidence that they have taken out appropriate public liability insurance for the premises to be licensed.

6.7 Licence Duration

- 6.7.1 The Department For Transport (DfT) considers that annual licence renewal is not necessary or appropriate for private hire operators. They recommend, as good practice, that a licence period of five years would be reasonable.
- 6.7.2 An Operator's Licence issued by Tonbridge and Malling Borough Council will last for three years.

6.8 Address from which an Operator may operate

- 6.8.1 The operator must provide evidence that appropriate permissions (and public liability insurance if relevant) are in place at any new premises to ensure continuity of licence; and within seven days inform the Council in writing of a home address change taking place. If the appropriate permission or insurance is not in place, the licence may be revoked or suspended pending compliance. Operators will be required to supply the Council with an up to date list of all vehicles and drivers working under that licence and of any changes to that list.

Fares and Fees

7 Fares and Fees

7.1 Hackney Carriage

- 7.1.1 Hackney Carriage Fares, set by the Council, are a maximum and can be negotiated downwards by the hirer. Tonbridge and Malling Borough Council considers it good practice to review the fare scales at regular intervals upon request from the taxi trade and will, therefore, consider the fare scales on an annual basis.
- 7.1.2 When determining the level of fares consideration will be given as to what it is reasonable to expect the travelling public to pay as well as the need to give drivers an incentive to provide a cost-effective service at the times it is needed.
- 7.1.3 Fares can be negotiated prior to the commencement of the journey in both private hire vehicles and hackney carriages.
- 7.1.4 One of the main complaints relating to hackney carriages concerns overcharging. To protect the fare paying public from overcharging, as well as to protect the drivers from complaints, Tonbridge and Malling Council will operate a simple fare tariff that must be displayed in all hackney carriages. Negotiated fares may not exceed the set tariff for the journey.
- 7.1.5 In reviewing the fare tariff the Council will consult with the trade and publish the fares in a local newspaper, Council's Web Site and Council Offices at least 14 days before the fares are due to come into force.
- 7.1.6 These regulations in relation to fares do not apply to private hire vehicles.
- 7.1.7 A table of authorised fares will be provided to each hackney carriage licence holder, which must be displayed in each vehicle so that it is easily visible to all hirers.
- 7.1.8 A hackney carriage driver must, if requested by the passenger, provide a written receipt for the fare paid. **Minimum information required is Drivers name; Drivers Badge Number and Vehicle plate number ; Date; Time and Total Fare charged..**
- 7.1.9 The Guidance also recognises that there is a case for allowing any hackney carriage proprietors who wish to do so, to make it clear by advertising that they charge less than the maximum fare.

7.2 Private Hire

- 7.2.1 Private hire fares are not regulated by the Licensing Authority.

Fares and Fees

7.3 Fees

The Guidance does not deal with the issue of licensing fees at all. It is, however, generally recognised that the fees set for all hackney carriage and private hire licences should be such as to ensure that the costs of the service, including the cost of issue and administration and enforcement will so far as possible be met from fee income.

Local Government (Miscellaneous Provisions) Act 1976

- 7.3.1 Section 53 of the Local Government (Miscellaneous Provisions) Act 1976 covers Drivers' licences for hackney carriage and private hire vehicles, allows fees to recover the costs of issue and administration.
- 7.3.2 Section 70 of the Local Government (Miscellaneous Provisions) Act 1976 covers fees for vehicle and operators' licences allows fees to: recover the reasonable cost of carrying out by or on behalf of the district council of inspections of hackney carriages and private hire vehicles for the purpose of determining whether any such licence should be granted or renewed; reasonable cost of providing hackney carriage stands; and any reasonable administrative or other costs in connection with the foregoing and with the control and supervision of hackney carriages and private hire vehicles.
- 7.3.3 A district council may remit the whole or part of any fee chargeable in pursuance of Section 48 – Licensing of private hire vehicles and Section 55 – Licensing of operators of private hire vehicles
- 7.3.4 It is not lawful for the Council to seek to make a profit from licence fees that are within its discretion. In particular, with regard to the fees charged for hackney carriage and private hire vehicle and operator licences, the legislation provides that these should be sufficient to cover the costs of inspecting the vehicles, providing hackney carriage stands and administering the control and supervision of hackney carriages and private hire vehicles.
- 7.3.5 All fees payable will be reviewed annually as part of the Council's budgetary process. The Council will publish the fees in a local newspaper at least 28 days prior to the fees coming into force to allow for constructive comments to be received and considered prior to the implementation date. The fees will be published together with other fees on the Council's website under the licensing link.

7.4 Payments

- 7.4.1 All cheques for licence applications should be made payable to "Tonbridge and Malling Borough Council" or "TMBC". Payments can also be made electronically, by credit and debit card or by cash at the Council offices.

Fares and Fees

7.5 Refunds, Transfers, Duplicate Copies and Change of Address

- 7.5.1 Any refund will reflect the up front costs paid by the Council including, but not limited to, the medical examination, DVLA mandate and administrative charges.
- 7.5.2 A full list of fees associated with the administration and issuing of licences is available on the Council's web site.
- 7.5.3 Where the holder of a driver licence, vehicle licence or operator's licence is referred to the Licensing and Appeals Committee and their licence is revoked or suspended no refund will be made.
- 7.5.4 Where an applicant, licence is referred to the Licensing and Appeals Committee and their application is refused, any refund will reflect the upfront costs paid by the Council including, but not limited to, the medical examination, DVLA mandate and administrative charges.

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Disciplinary and Enforcement Measures

8 Disciplinary and Enforcement Measures

8.1 Enforcement

- 8.1.1 It is recognised that well-directed enforcement activity by the Authority benefits not only the public but also the responsible members of the hackney carriage and private hire trades. The DfT accepts that the resources devoted by licensing authorities to enforcement will vary according to local circumstances. They remind authorities, however, that it is desirable to ensure that hackney carriage and private hire enforcement effort is at least partly directed to the late night period, when problems such as touting tend most often to arise.
- 8.1.2 In pursuance of its objective to encourage responsible hackney carriage/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. The Council will only intervene where it is necessary and proportionate to do so, having regard to the objectives outlined in section 2.5 of this document.
- 8.1.3 The Taxi Licensing and Enforcement Policy & Practice set out at APPENDIX K will be used to ensure that its enforcement effort is reasonable, transparent and well directed.

8.2 Disciplinary Hearings

- 8.2.1 Formal disciplinary matters will be dealt with by either an authorised Licensing Officer, or the Licensing Committee sitting as a panel. Informal disciplinary measures will be dealt with by an authorised Licensing Officer.

8.3 Penalty Points Scheme

- 8.3.1 Whilst the operation of a successful hackney carriage and private hire vehicle service is important to the economic well-being of the Borough, it is equally important that the service provided by the trade is properly regulated in order to instil confidence in the travelling public who wish to use the service.
- 8.3.2 The Council clearly has a responsibility to ensure that all drivers, owners and operators of vehicles adhere to basic minimum standards and to do this in a consistent and transparent manner. These standards are defined by legislation, licence conditions and codes adopted by the Council. Together they identify what is required of the trade and help to ensure that a consistent approach is taken by Council Officers, in their application.

Disciplinary and Enforcement Measures

- 8.3.3 A number of licensing authorities have found that an effective means of applying the conditions at a local level is through the adoption of a penalty point's scheme. This scheme will be used to enforce existing legislation and any future bye laws governing Hackney Carriage Drivers. This acts as a first step in ensuring compliance with the conditions and serves as an "early warning" system to drivers and owners or operators who see fit to ignore their responsibilities or fail to meet the requirements of the conditions.
- 8.3.4 Penalty points will remain on a licence for a period of two rolling years from the date on which they are imposed. If a driver accumulates twelve or more penalty points within a period of twenty four months, commencing from the date of imposition of the earliest 'live' penalty points, disciplinary action may be taken by either an authorised Licensing Officer or the Licensing and Appeals Panel, dependent on the category of non compliance.
- 8.3.5 It is considered that the penalty points scheme assists the trade in maintaining its high standards. The Penalty Points System does not however compromise the Council's ability to enforce breaches of statute or local conditions in the courts should an offence warrant such action. A copy of the proposed penalty points system can be found in APPENDIX H.

8.4 Range of Powers

- 8.4.1 The Council may take any of the steps below upon receipt of evidence that an offence has been committed in relation to hackney carriage licences, private hire licences or private hire operator's licences. A breach of a condition in the Licensing Policy amounts to an offence in this context.

- Suspension of the Licence;
- Revocation of the Licence;
- Refusal to Renew;
- Issuing of Warnings or Cautions;
- Prosecution.

Suspension

- 8.4.2 Hackney carriage vehicles and private hire vehicles must be kept at all times in an efficient, safe, tidy and clean condition. Compliance with the vehicle specifications and conditions is essential and will be enforced by periodic, random vehicle inspections by the Council. Where it is found that any vehicle is not being properly maintained, a defect(s) notice will be served on the proprietor setting out the defect(s) and where public safety is likely to be imperilled the further use of the vehicle will be suspended until the defects have been remedied. The suspension will then not be lifted until the vehicle has undergone a further test at the proprietor's expense and been passed as fit for use as a hackney carriage or private hire vehicle.

The Council may exercise its discretion to suspend the operation of a driver's licence for a specified period.

Disciplinary and Enforcement Measures

Revocation

- 8.4.3 Where a driver has accumulated 12 penalty points or more under the Authority's penalty points system, any decision as to whether a licence should be revoked or suspended will be made by the Licensing and Appeals Committee sitting as a panel.

Refusal to Renew

- 8.4.4 As an alternative to revocation an authorised licensing officer may decide that the appropriate action, in a situation where the licence is shortly to expire, is to order that the licence shall not be renewed.

Issuing of Warnings and Cautions

- 8.4.5 As a method of dealing with less serious matters, the Council will issue warnings and cautions as are appropriate to the circumstances in accordance with Home Office Circular 016/2008 – 'Simple Cautioning of Adult Offenders'. Minor or first-time transgressions are likely to attract either an oral or written warning. Repeated or more serious conduct is likely to lead to the issuing of a simple caution, provided:

- there is sufficient evidence to justify a prosecution;
- the licence holder admits his/her guilt;
- the licence holder agrees to be cautioned.

This is more fully discussed in APPENDIX K

Prosecution

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

- where the allegation is of a serious or repeated offence; or
- where the Council proposes to caution the licence holder, but the offence is not admitted, or the caution not accepted

8.5 Offences

- 8.5.1 Offences in relation to hackney carriage **and private hire vehicles** are derived from the following sources:

- Town Police Clauses Act 1847 (hackney only);
- Local Government (Miscellaneous Provisions) 1976 (hackney and private hire);
- Transport Act 1980 (private hire only);

The relevant offences under the 1847 Act, the 1976 and the 1980 Act are set out in APPENDICES H and N.

Disciplinary and Enforcement Measures

8.6 Taxi Ranks

- 8.6.1 A number of ranks for hackney carriages have been designated within the Tonbridge and Malling Borough Council area and are sited as follows (number of spaces in brackets):

Tonbridge

Waterloo Road (21)	Avebury Avenue (3)
Botany (2)	Bradford Street (2)
High Street (4)	Angel Lane (2)
Barden Road (2)	

West Malling

High Street (2)

Ranks not on the public highway

Station Approach Borough Green (6)

Station Approach West Malling (2)

- 8.6.2 The number and position of taxi ranks within the borough will be subject to change due to usage and need.

8.7 Stands

- 8.7.1 It is an offence for any person to cause or permit any vehicle other than a hackney carriage to wait on any stand for hackney carriages. Drivers of hackney carriages may only wait on a stand whilst plying for hire or waiting for a fare; drivers who park on a stand and leave their vehicle unattended are committing an offence.

8.8 Rights of Appeal

- 8.8.1 In general terms, where an applicant is aggrieved by the Council's decision to refuse to grant, refuse to renew, suspend or revoke a licence; the applicant has a right of appeal to the local Magistrates' Court. The specific grounds for appeal are detailed in APPENDIX L.

- 8.8.2 Any appeal must be lodged at the Court within twenty-one days of the applicant receiving notification of the Council's decision. The appeal must state the grounds upon which the appeal is based.

8.9 Taxi and Private Hire Complaints Procedure

- 8.9.1 The Taxi and Private Hire complaints procedure is specified in Appendix M

Appendix A – Vehicle Conditions

9 APPENDIX A

Hackney carriage and private hire vehicles specification and schedule of conditions

Conditions that apply to both types of vehicles

9.1 General Construction

- 9.1.1 Every hackney carriage and private hire vehicle must comply in all respects with these specifications and conditions
- 9.1.2 Whilst these specifications may have been complied with a licence may nevertheless be withheld if the Council is of the opinion that any vehicle is unsuitable for public use.

9.2 Age

- 9.2.1 When first licensed, all vehicles must be less than six years old from the date of first registration.
- 9.2.2 Saloon, estate, hatchback, or multi-passenger type hackney carriages/private hire vehicles, may be licensed for a maximum of ten years from the date of first registration, subject to six-monthly testing by one of the Council's authorised garages. Each six-monthly test requires the vehicle to obtain a "Compliance Pass Certificate".
- 9.2.3 **Fully Wheel Chair Compliant vehicles (Mi specification with side loading for wheelchairs)** may be licensed to a maximum of fifteen years old from the date of first registration, subject to six-monthly testing by the Council's authorised garage. Each six-monthly test requires the vehicle to obtain a „Compliance Pass Certificate“ from one of the Council's nominated garages.
- 9.2.4 Vehicles meeting this requirement may be licensed until such time as the above requirements cannot be achieved. At such a time, the vehicle will not longer be licensed. Where repair work will not be completed prior to the expiry of the previous licence, a valid renewal application and fee must have been received prior to the previous licence expiry date for this section to apply. The Authority will not renew a vehicle licence if it is more than 10 years old, at the time that it is presented for renewal, unless there are exceptional circumstances, to be decided by Committee.

Appendix A – Vehicle Conditions

9.3 Vehicle Passenger Capacity

- 9.3.1 This authority would normally expect a licensed vehicle to be capable of carrying a minimum of four passengers together with a reasonable amount of their luggage.

9.4 Body and Vehicle Colour

- 9.4.1 The body must normally be of the fixed head type. In the case of a hackney carriage the body colour must be either wholly white or wholly silver. In this case silver means bright silver and not a coloured derivative.

Where the shade of colour is in dispute it is recommended that the advice of the licensing officer is sought before attempting to licence the vehicle.

If in the opinion of the Licensing Manager the colour of the vehicle is not white or bright silver the vehicle will not be licensed.

- 9.4.2 **In the case of a private hire vehicle any colour is permitted.**

- 9.4.3 The vehicle must not be left-hand drive. Right hand drive passenger vehicles offer the drivers clearer and safer vision in an overtaking manoeuvre, and also eliminate the need for a front seat passenger to alight from the vehicle into the road.

- 9.4.4 At least two doors for the use of passengers conveyed in the vehicle must be provided and a separate means of ingress and egress for the driver must be provided by means of a door on the offside of the vehicle

- 9.4.5 The top of the tread of the lowest step for any entrance, or where there is no step the floor level at the entrance, must not be more than 15 inches (380mm) above ground level when the vehicle is unladen.

- 9.4.6 Passengers' doors must be capable of being readily opened from inside and outside the vehicle by one operation of the latch mechanism, provided that this condition shall not prevent doors being fitted with a child safety lock.

- 9.4.7 **Vehicles must have windows at the side and rear with ventilation being provided for passengers**

- 9.4.8 Provision must be made for carrying and securing luggage and if luggage is carried or intended to be carried on the roof, a roof rack of a type or roof mounted luggage box approved by **European Union** must be fitted..

Appendix A – Vehicle Conditions

9.5 Steering

- 9.5.1 The steering wheel must be on the offside of the vehicle and must not be left-hand drive. Right hand drive passenger vehicles offer the drivers clearer and safer vision in an overtaking manoeuvre, and also eliminate the need for a front seat passenger to alight from the vehicle into the road.

9.6 Tyres

- 9.6.1 All tyres at normal pressure under load must have a suitable minimum circumference for correct operation of the taximeter.
- 9.6.2 In view of the high mileage covered by hackney carriage and private hire vehicles the depth of tyre tread on all vehicles must be a minimum of 2mm.

9.7 Suspension

- 9.7.1 The vehicle must be fitted with an efficient suspension system so designed and constructed that there is no excessive roll or pitch.

9.8 Fuel Tank

- 9.8.1 The filling point for all fuel tanks must be accessible only from the outside if the vehicle and filler caps must be so designed and constructed that they cannot be dislodged by accidental operation.

9.9 Seats

- 9.9.1 Unless the Original Manufacturers' Specification states otherwise, the front seat of the vehicle next to the driver will be regarded as a seat for one passenger only.

Appendix A – Vehicle Conditions

- 9.9.2 Passenger seats must be at least forty one centimetres wide per passenger with no significant intrusion by wheel arches, armrests or other parts of the vehicle. Measurements are to be taken laterally along the widest part of the seat.

9.10 Luggage

- 9.10.1 Adequate storage for passenger luggage must be available, adequately separated from the passenger compartment without obstructing any emergency exits. Luggage carried must be suitably secured in place.
- 9.10.2 Estate cars or multi-passenger type vehicles, can cause a safety concern when stacking luggage in the vehicle by the potential danger to passengers should the vehicle have to harshly brake or be involved in an accident. It is recommended that luggage should not be stacked above the height of the rear seats unless the vehicle is designed with, or fitted with suitable luggage restraints or covers to prevent luggage from entering the passenger compartment. Alternatively a guard rail should be fitted.

9.11 Ventilation

- 9.11.1 Vehicles must have windows at the side and rear with ventilation being provided for passengers

9.12 Fire Extinguisher

- 9.12.1 Optional

9.13 First Aid Equipment

- 9.13.1 Optional

Appendix A – Vehicle Conditions

9.14 Communication Devices

- 9.14.1 All radio equipment fitted to the vehicle must be fitted securely and safely in accordance with guidelines for the time being published by the Radio Communications Agency.
- 9.14.2 The use of a Citizen Band (CB) transmitter or receiver is prohibited.
- 9.14.3 The use of radio-scanning devices is prohibited and such devices must not be fitted or carried in the vehicle.

9.15 Mobile Telephones

- 9.15.1 Mobile telephones may only be used with a hands-free kit or a Bluetooth headset.

9.16 Identification Plates

- 9.16.1 Within the Borough of Tonbridge and Malling both hackney carriages and private hire vehicles are required to **permanently display** licence plates externally on the rear of the vehicle.
- 9.16.2 This is a key feature in helping to identify vehicles that are properly licensed. The plate details Tonbridge and Malling Borough Council as the Licensing Authority, the vehicle make, model, colour and registration mark, the number of passengers the vehicle can carry and the expiry date of the licence.
- 9.16.3 In addition to the external plate all vehicles must display a small internal plate containing the same details as the external plate. This plate can be read from both inside and outside of the vehicle and must be positioned at the top of the front nearside corner of the windscreen.

9.17 Insignia

- 9.17.1 Within the Borough of Tonbridge and Malling all hackney carriages are required to **permanently display** door signs displaying the TMBC Logo and the word "TAXI"

No magnetic door signs are allowed

9.18 Fittings

- 9.18.1 No fittings other than those approved by the council shall be attached to or carried upon the inside or outside of the vehicle.

Appendix A – Vehicle Conditions

9.19 Seat Belts

- 9.19.1 All vehicles must be fitted with fully operational seat belts, one for each passenger carried, fully compliant with the relevant British Standard, except where legislation specifically provides an exemption.

9.20 Alteration of Vehicle

- 9.20.1 No material alteration or change in the specification, design, condition or appearance of any vehicle shall be made without the approval of the Council at any time while a licence is in force in respect of that vehicle.
- 9.20.2 Equipment must not be removed from a vehicle which is wheelchair accessible which would render the vehicle incapable of carrying wheelchair bound passengers.

9.21 Maintenance and Condition of the Vehicle

- 9.21.1 The exterior of all licensed vehicles shall be maintained in a clean, safe and proper manner at all times. In particular, the exterior of the vehicle shall:
- be free of large and/or sharp-edged dents;
 - be free of visible rust;
 - be free of unrepaired accident damage;
 - have uniform paintwork equivalent to that applied by the manufacturer; and
 - be maintained in an acceptable state of cleanliness, (discretion may be given during periods of adverse weather).
- 9.21.2 The interior of all licensed vehicles shall be maintained in a clean, safe and proper manner at all times. In particular, the interior of the vehicle shall:
- be free of all stains to the upholstery;
 - be free of all splits and tears to the seats;
 - be maintained in an acceptable state of cleanliness; and
 - provide seats functioning in accordance with the Original Manufacturers' Specification.
- 9.21.3 For the avoidance of doubt, any vehicle that would not pass an Engineer's Report or MOT **must** not be used until such time as the requirements of the Engineer's Report and MOT can be met.

Appendix A – Vehicle Conditions

9.21.4 All licensed vehicles shall be liable to be randomly inspected and tested by an Authorised Council Officer or the Police. If it is discovered during an inspection that a vehicle is not being properly maintained, an Improvement Notice may be served on the owner under Section 68 of the Local Government (Miscellaneous Provisions) Act 1976. This notice will specify the defects and the action required to remedy the problem.

9.21.5 Failure to comply with the requirements of an Improvement Notice will be considered a serious breach of licensing requirements and dealt with accordingly. If the requirements of an Improvement Notice are not rectified within two months, the vehicle licence can be revoked in accordance with Section 68 of the Local Government (Miscellaneous Provisions) Act 1976.

9.22 Smoking

9.22.1 It is the responsibility of both the driver and the proprietor to ensure no smoking signage, as prescribed by the Health Act 2006, is displayed in all licensed hackney carriages or private hire vehicles at all times

9.23 Disability Access

9.23.1 Where a vehicle is utilised for the carriage of passengers in a wheelchair, the following conditions shall apply:

Access to and exit from the wheelchair position must not be obstructed in any manner at any time except by wheelchair loading apparatus;

Wheelchair internal anchorage must be of the manufacturer's design and construction and secured in such a position as to not obstruct any emergency exit;

A suitable restraint must be available for the occupant of a wheelchair;

Access ramps or lifts to the vehicle must be securely fixed prior to use, and be able to support the wheelchair, occupant and helper; and

Ramps and lifts must be securely stored in the vehicle before it may move off.

9.23.2 Any equipment fitted to the vehicle for the purpose of lifting a wheelchair into the vehicle must have been tested in accordance with the requirements of the Lifting Operations and Lifting Equipment Regulations 1998 (S.I. 1998/2307). Any such equipment must be maintained in good working order and be available for use at all times.

Appendix A – Vehicle Conditions

- 9.23.3 Where a vehicle is designed or adapted to carry a wheelchair, the proprietor shall ensure that the driver has received sufficient training to safely load and convey wheelchair-bound passengers.

9.24 Animals

- 9.24.1 Since 31 March 2001 licensed taxi drivers in England and Wales have been under a duty (under s.37 of the Disability Discrimination Act 1995) to carry guide, hearing and other prescribed assistance dogs in the vehicles, without additional charge.

- 9.24.2 Drivers who have a medical condition that is aggravated by exposure to dogs may apply to the licensing authority for exemption from the duty on medical grounds. Any other driver who fails to comply with the duty is guilty of a criminal offence and liable, on summary conviction, to a fine of up to £1,000.

- 9.24.3 No animals, other than those falling into the criteria above or those owned by bona-fide fare paying passengers with the agreement of the driver, shall be carried in or on any licensed vehicle whilst the vehicle is so engaged under the terms of its licence.

9.25 Taximeters – Hackney Carriage Vehicles

- 9.25.1 An approved taximeter must be fitted in all hackney carriages and must be correctly calibrated, sealed and fully functional in accordance with the current Council approved fare structure.

- 9.25.2 All taximeters must be appropriately stamped to ensure compliance with The Measuring Instruments (Taximeters) Regulations 2006, or any subsequent legislation.

- 9.25.3 The taximeter shall be positioned so that the display on the face of the meter may be clearly visible to any person being conveyed in the vehicle at all times. The dial of the taximeter shall be kept properly illuminated throughout any part of the hiring.

- 9.25.4 The vehicle taximeter shall be brought into operation at the commencement of a journey. When the meter is operating there shall be recorded on the face of the meter on clearly legible figures a fare not exceeding the maximum fare that may be charged for that journey

- 9.25.5 An official copy of the Council's fare tariff shall be clearly displayed in the vehicles so as to be plainly visible to passengers carried therein.

Appendix A – Vehicle Conditions

9.25.6 In the event of a journey commencing in but ending outside the area covered by Tonbridge and Malling Borough Council, there may be charged for the journey such fare as was agreed before the hiring was effected. If no such agreement was made then the fare to be charged should be no greater than that fixed by the Council in connection with the fare tariff for the hire of hackney carriages.

9.26 Taximeters – Private Hire Vehicles

9.26.1 Private hire vehicles are not required to be fitted with a taximeter but where a taximeter has been fitted, it must be of a type approved by the Council

9.27 Roof Sign – Hackney Carriage Vehicle

9.27.1 Hackney carriage vehicles, other than those with built-in roof signs, must be fitted with an illuminated external sign on and above the roof of the vehicle. The sign must display either:

- the word "TAXI"; or
- the name and telephone number of the hackney carriage company; or
- the words "FOR HIRE"; or
- a combination of the above

9.27.2 The roof sign and lettering shall be of an appropriate size to enable it to be clearly identifiable to the public.

9.27.3 The illuminated external roof sign, including built-in roof signs, must be switched off when the vehicle has been hired and illuminated when available for hire.

9.27.4 The roof sign, other than those built-in to the vehicle, must be mounted on the forward half of the vehicle roof and be adequately secured.

9.27.5 An additional internal illuminated „FOR HIRE” sign may be fitted in licensed hackney carriages, in a position approved by the Council. The sign’s illumination must be switched off when the vehicle has been hired

Appendix B – Limousine Conditions

10 APPENDIX B

ADDITIONAL CONDITIONS FOR PRIVATE HIRE LIMOUSINES

10.1 Definition

10.1.1 For the purposes of this Policy, a stretch limousine is defined as follows:-

A stretch limousine is a motor vehicle that has been lengthened by the insertion of an additional body section and modified by a coachbuilder to contain luxury facilities and fixtures that;

*is capable of carrying up to but not exceeding 8 passengers;
prior to the introduction of this Policy could not currently be licensed by the Council as a private hire vehicle; and
is not a decommissioned military or emergency service vehicle.*

All references to limousine within this Policy assume compliance with the above definition.

10.2 Licensing Conditions

10.2.1 Unless specifically stated otherwise below, all requirements relating to the licensing of private hire vehicles apply to limousines. The requirements below are additional requirements specifically for limousines licensed as private hire vehicles.

10.3 Left-Hand Drive.

10.3.1 Left-hand drive limousines will be permitted as private hire vehicles.

10.4 Seating.

10.4.1 Sideways facing seating will be permitted in limousines providing that it conforms with all relevant road traffic vehicle legislation.

Appendix B – Limousine Conditions

10.5 Roadworthiness

- 10.5.1 All limousines licensed as private hire vehicles must hold a valid Individual Vehicle Approval (IVA) Certificate.

10.6 Insurance

- 10.6.1 All limousines licensed as private hire vehicles must have appropriate insurance to cover the provision of a service to the public for hire and reward, taking into account the specification of the vehicle.

10.7 Tyres

- 10.7.1 Given the increased weight of the vehicle, the vehicle must be fitted with tyres of appropriate size and grade to conform with the Original Manufacturers' Specification.

10.8 Vehicle Testing

- 10.8.1 All limousines licensed as private hire vehicles must obtain six-monthly test certificates showing that the vehicle has satisfied the standards of the appropriate MOT Class.

10.9 Carrying of Passengers

- 10.9.1 All limousines licensed as private hire vehicles must reduce their seating capacity to a maximum of eight passengers.
- 10.9.2 Passengers shall not be permitted to be carried on any seats in the driver's compartment.
- 10.9.3 The vehicle must not carry more than eight passengers at any time. For the purpose of counting passengers, a child of any age will be classed as a passenger.

10.10 Advertising

- 10.10.1 In any advertisement publicising a limousine service, the advertisement must state that the vehicle is only licensed to carry eight passengers.

Appendix B – Limousine Conditions

10.11 Seat Belts

- 10.11.1 Seatbelts complying with all relevant legislation must be fitted to all forward and rear facing seats and must be worn by passengers at all times the vehicle is in motion.
- 10.11.2 There is no legal requirement for seatbelts to be fitted on sideways facing seats; however, if they are fitted they must be worn by passengers at all times the vehicle is in motion.

10.12 Provision of Alcohol

- 10.12.1 Alcoholic drinks may only be provided in the vehicle when the vehicle is complying with all relevant requirements of the Licensing Act 2003.
- 10.12.2 Alcohol shall only be served whilst the vehicle is stationary. Whilst the vehicle is in motion, all receptacles containing alcohol shall be securely stored.
- 10.12.3 Persons under the age of 18 must not be served alcohol.
- 10.12.4 All glassware used in the vehicle must be made of shatterproof glass, or alternatively be made of plastic. The vehicle proprietor should also be aware of the Council's Statement of Licensing Policy in respect of the Licensing Act 2003.

10.13 Provision of Entertainment

- 10.13.1 The driver shall not play or permit the performance of any media that, given its age classification or content, is unsuitable for the age of the youngest passenger in the vehicle.
- 10.13.2 The limousine proprietor shall ensure that a Performing Rights Society (PRS) Licence and Phonographic Performance Licence (PPL) are held for the vehicle, where appropriate.
- 10.13.3 If the limousine parks to provide some form of licensable entertainment for its passengers, only entertainment complying with the relevant requirements of the Licensing Act 2003 shall be permitted.

10.14 Luggage

- 10.14.1 Limousines licensed as private hire vehicles are not permitted to carry luggage within the passenger compartment of the vehicle.

Appendix B – Limousine Conditions

10.15 Safety Hammer

- 10.15.1 Limousines licensed as private hire vehicles must carry a safety hammer capable of being used to break the window glass of the vehicle. The hammer must be securely located within the driver's compartment.

10.16 Driver and Operator Licensing Requirements

- 10.16.1 A proprietor offering limousines licensed as private hire vehicles for hire in Tonbridge and Malling Borough Council must hold a private hire operators' licence with The Council.
- 10.16.2 All bookings for a limousine licensed as a private hire vehicle must be booked through the licensed private hire operator.
- 10.16.3 Once licensed in Tonbridge and Malling Borough Council as a private hire vehicle the limousine can only be driven by a private hire driver licensed by the Council. This applies at all times whilst the vehicle holds a private hire vehicle licence.
- 10.16.4 All drivers and operators of limousines licensed as private hire vehicles are required to satisfy all appropriate requirements of this Policy.

10.17 Vehicle Testing Stations

- 10.17.1 Limousines licensed as private hire vehicles will be required to provide six-monthly MOT certificates from a VOSA goods vehicle testing station, or alternatively a VOSA approved class 5 testing station, that has appropriate facilities.

Appendix C – Application procedure

11 APPENDIX C

VEHICLES

11.1 New licences and renewal licences

11.1.1 An applicant will need to complete, in full, the necessary application forms as follows:-

- New application for hackney carriage vehicle licence
- Renewal application for hackney carriage vehicle licence
- New application for private hire vehicle licence
- Renewal application for private hire vehicle licence

11.1.2 The following documents must also be produced:-

- The Vehicle Registration Document issued by the DVLA.** (If this is not available at the time of purchasing the vehicle then proof of ownership is required).
- Insurance Certificate confirming the vehicle is covered for 'Hire and Reward'** (if a cover note is provided licence holders are required to produce further insurance certificates on or before the expiry of the cover note)

Photocopies will be taken of all documents which will be retained and the originals returned to the applicant.

11.1.3 The relevant fee must also be paid.

11.1.4 Officers may only accept complete applications comprising of all the necessary paperwork. Documentation must be submitted in sufficient time to take into account that a minimum of one week is required before the appropriate licence can be issued.

11.1.5 Once the documentation has been validated a test voucher will be issued authorising the applicant to take the vehicle to one of the testing centres of his choice.

Once the vehicle has been successfully MoT and Compliance tested a pass certificate will be issued by the garage which enables the driver to collect his vehicle licence plates.

Appendix C – Application procedure

11.2 Replacement Vehicle - existing hackney carriage or private hire vehicle

- 11.2.1 If, during the term of the vehicle licence, it becomes necessary to replace the existing vehicle with another, for example in the case of an accident, all of the supporting documents as detailed above must be submitted. A test voucher will then be issued and following a successful pass, a temporary licence plate will be issued.
- 11.2.2 When processing applications for replacement plates the licensing team will endeavour to provide an immediate turn around providing all the documentation submitted is valid.
- 11.2.3 There will an administration fee charged for this process which takes into account the supply of a new vehicle plate.

11.3 Transfer of an existing hackney carriage or private hire vehicle

- 11.3.1 Documentation as described in 11.1.2 above must be provided and must be submitted in sufficient time to take into account that a minimum of one week is required before the appropriate licence can be issued.
- 11.3.2 An administration fee will be charged for function.

DRIVERS

11.4 Application

- 11.4.1 An applicant will need to complete an application form for the following:-
- New application for hackney carriage drivers licence
 - Renewal application for hackney carriage drivers licence
 - New application for private hire drivers licence
 - Renewal application for private hire drivers licence
- 11.4.2 All applicants must have held a full driving licence or equivalent for a minimum period of one year prior to the date of making an application.

Appendix C – Application procedure

11.5 New drivers

11.5.1 The following documentation must then be provided before a drivers' badge will be issued, which will be photocopied and originals returned to applicant:

- a) **Full UK (or equivalent) Drivers licence which has been held for at least 12 months**

Where applicants have recently arrived from countries within the European Union, any driving licence entitlement held in that country will automatically count towards the qualification requirement for the issue of a hackney carriage or private hire vehicle driver's licence.

Where applicants have recently arrived from other, non-EU countries, it is possible for them to convert any existing driving licence to a UK issue, either by straight transfer or by undertaking an appropriate driving test. The Council requires that the twelve month qualifying period for holding such a licence.

- b) **A Driving Standards Agency test pass certificate** for hackney carriage and private hire drivers.
- c) **A medical certificate**, obtained from the Council's medical provider indicating that the applicant is physically fit and able to fulfil the role, to DVLA Vocational Group 2 Standards.
- d) **A completed application form for an Enhanced Disclosure and Barring Service Check**. All overseas applicants who have resided in this country for less than three years must obtain a Certificate of Good Conduct from their relevant embassy or consulate, at the applicant's expense, authenticated, translated and sealed by the embassy or consulate.
- e) **A Form permitting to work in the UK** - Any foreign national will be required to give details of any residency outside the UK and sign a declaration that they are permitted to work in the UK. Applicants must also provide a document to evidence that they are permitted to work in the UK.
- f) **DVLA entitlement consent form** – this enables the Council to receive a full history of an applicant's driving licence from the DVLA
- g) **Knowledge Test** - New applicants will also be required to pass a Geographical/topographical examination of the Borough, known as the knowledge test. Details of this test are contained in Annex G to this report.

11.5.2 The appropriate fee must be paid. Upon successful completion of the application procedure, applicants will be issued with a paper licence and also a driver's badge which shall remain the property of the Council and must be surrendered when the driver ceases employment.

Appendix C – Application procedure

11.6 Drivers renewing licences

11.6.1 The following documentation must then be provided before a drivers' badge will be issued, which will be photocopied and originals returned to applicant:

- a) **Full UK (or equivalent EC) Drivers licence**
- b) **A medical certificate**, obtained from the Council's medical provider indicating that the applicant is physically fit and able to fulfil the role, to DVLA Vocational Group 2 Standards.
- c) **A completed (DBS) form** for an Enhanced Disclosure and Barring Services (DBS) Check.
- d) **DVLA entitlement consent form** – this enables the Council to receive a full history of an applicant's driving licence from the DVLA.

If the documentation is complete, photocopies will be taken of all original documents and returned to the applicant

11.6.2 Applicants will be issued with a paper licence and also a driver's badge which shall remain the property of the Council and must be surrendered when the driver ceases employment.

11.7 Private Hire Operator's

11.7.1 The following documentation must then be provided before a drivers' badge will be issued, which will be photocopied and originals returned to applicant:

- a) Application form
- b) Proof of public liability insurance for the premises to be licensed if the public have access
- c) The appropriate fee

11.8 Applications general

11.8.1 If the application form contains any details to suggest that any relevant convictions or cautions have been imposed on the applicant since the licence was last issued or renewed, an authorised officer will discuss the matter with the applicant.

11.8.2 At that time it will be decided whether the application is likely to be successful in the light of the Council's Policy of the Relevance of Convictions as detailed in Section 5.7, either by approval by authorised officers, or by reference to the Director of Central Services.

Appendix C – Application procedure

- 11.8.3 In both cases, the DBS check will be applied for before any further consideration of the application.
- 11.8.4 When the DBS check has been returned, the application will be considered in the light of the information provided. It is therefore necessary to ensure that details of ALL convictions and cautions are provided at the initial stage. A serious view will be taken of any application which seeks to conceal any caution or conviction in order to obtain a Licence. This will lead to automatic referral to the Licensing & Appeals Panel for consideration as to whether the applicant is a 'fit and proper person'. Applications will normally be refused where an applicant has sought to conceal information on their application form.
- 11.8.5 Any information relating to criminal background will only be kept as long as it is necessary for assessment purposes.
- 11.8.6 In the event of an application being refused the applicant has the right of appeal to Magistrates' Court, such appeal to be lodged within 21 days of the decision being notified.
- 11.8.7 Where an application for a licence is refused (either a new application or a renewal), or a licence is revoked, a further application from the applicant/ licence holder will not normally be considered for a period of two years from the date of refusal or revocation as the case may be.

Appendix D – Previous Convictions

12 APPENDIX D

GUIDELINES RELATING TO THE RELEVANCE OF PREVIOUS CONVICTIONS

12.1 General Policy

- 12.1.1 Each case will be decided on its own merits.
- 12.1.2 The overriding consideration is the safety of the public. The Council has a duty to ensure so far as possible that those licensed to drive hackney carriage and private hire vehicles are suitable persons to do so, that they are safe drivers with good driving records and adequate experience, sober, courteous, mentally and physically fit, honest and not persons who would take advantage of their employment to abuse or assault passengers.
- 12.1.3 A person with a current conviction for a serious crime need not be permanently barred from obtaining a licence but should be expected to (a) remain free of conviction for an appropriate period and (b) show adequate evidence of good character from the time of the conviction. Simply remaining free of conviction will not generally be regarded as sufficient evidence of good character.
- 12.1.4 Some discretion may be appropriate if the offence is isolated and there are mitigating circumstances. Similarly, multiple offences or a series of offences over a period of time are likely to give greater cause for concern and may demonstrate a pattern of inappropriate behaviour which will be taken into account.
- 12.1.5 The following examples afford a general guide on the action which might be taken where convictions are disclosed.

12.2 Offences of Dishonesty

- 12.2.1 Drivers of hackney carriage and private hire vehicles are expected to be persons of trust. It is comparatively easy for a dishonest driver to defraud the public by demanding more than the legal fare and in other ways.
- 12.2.2 Members of the public entrust themselves to the care of drivers both for their own safety and for fair dealing. Passengers may comprise especially vulnerable people.
- 12.2.3 For these reasons a serious view is taken of any convictions involving dishonesty. In general, a period of 4 years free of conviction will be required before an application is likely to be considered favourably.
- 12.2.4 In particular, an application will normally be refused where the applicant has a conviction for an offence of:-
- Theft
 - Burglary

Appendix D – Previous Convictions

- Fraud
- Benefit fraud (including offences under ss.111A and 112 of the Social Security Administration Act 1992)
- Handling or receiving stolen goods
- Forgery
- Conspiracy to defraud
- Obtaining money or property by deception
- Other deception

and the conviction is less than 4 years prior to the date of the application.

- 12.2.5 Between 4 and 5 years after conviction more weight will be given to the circumstances of the offence and any evidence adduced to show good character since the date of conviction.

12.3 Violence

- 12.3.1 As hackney carriage and private hire drivers maintain close contact with the public, in general a period of 4 to 10 years free of conviction for offences involving violence (depending on the nature and seriousness of the offence) will be required before an application is likely to be considered favourably.

- 12.3.2 In particular:-

- (i) An application will normally be refused where the applicant has a conviction for an offence of:-
- Murder
 - Manslaughter
 - Manslaughter or culpable homicide while driving
 - Arson
 - Malicious wounding or grievous bodily harm (s.20 Offences Against the Person Act 1861) which is racially aggravated (s.29(1)(a) Crime and Disorder Act 1998)
 - Actual bodily harm (s.47 Offences Against the Person Act 1861) which is racially aggravated (s.29(1)(b) Crime and Disorder Act 1998)

and the conviction is less than 10 years prior to the date of application.

- (ii) An application will normally be refused where the applicant has a conviction for an offence of:-
- Grievous bodily harm with intent (s.18 Offences Against the Person Act)
 - Grievous bodily harm (s.20 Offences Against the Person Act) « Robbery
 - Racially-aggravated criminal damage (s.30 Crime and Disorder Act 1998)

Appendix D – Previous Convictions

- Racially-aggravated s.4 Public Order Act 1986 offence (fear or provocation of violence) (s.31(1)(a) Crime and Disorder Act 1998)
- Racially-aggravated s.4A Public Order Act 1986 offence (intentional harassment, alarm or distress) (s.31 (1)(b) Crime and Disorder Act 1998)
- Racially-aggravated s.2 Protection from Harassment Act 1997 offence (harassment) (s.32(1)(a) Crime and Disorder Act 1998)
- Racially-aggravated s.4 Protection from Harassment Act 1997 offence (putting people in fear of violence) (s.32(1)(b) Crime and Disorder Act 1998)

and the conviction is less than 8 years prior to the date of application.

(iii) Between 8 and 10 years after conviction more weight will be given to the circumstances of the offence and any evidence adduced to show good character since the date of conviction. An application will normally be refused where the applicant has a conviction for an offence of:-

- Common assault
- Common assault which is racially aggravated (s.29(1)(c) Crime and Disorder Act 1998)
- Assault occasioning actual bodily harm (s.47 Offences Against the Person Act)
- Assault on a police officer
- Affray
- Racially aggravated s.5 Public Order Act 1986 offence (harassment, alarm or distress) (s.31(1)(c) Crime and Disorder Act 1998)
- Riot
- Obstruction
- Possession of offensive weapon
- Possession of firearm
- Criminal damage
- Violent disorder
- Resisting arrest
- and the conviction is less than 4 years prior to the date of application.

12.3.3 Between 4 and 8 years after conviction more weight will be given to the circumstances of the offence and any evidence adduced to show good character since the date of conviction.

Appendix D – Previous Convictions

12.4 Drugs

- 12.4.1 An application will normally be refused where the applicant has a conviction for a drug-related offence and the conviction is less than 5 years prior to the date of application.
- 12.4.2 In addition applicants will normally be required to show a period of at least 5 years free from taking drugs and/or 5 years after detoxification treatment if (s)he was an addict.

12.5 Indecency Offences

- 12.5.1 As hackney carriage and private hire drivers often carry unaccompanied passengers, applicants with convictions for soliciting, importuning, indecent exposure or any sexual offence will normally be refused a licence until they can show a substantial period (usually between 5 and 10 years) free from any such conviction.
- 12.5.2 In particular, an application will normally be refused where the applicant has a current conviction for an offence of:-
- Rape
 - Indecent assault
 - Gross indecency with a female
 - Gross indecency with a male
 - Indecent assault on a child under 16 years
 - Buggery
 - Is on the sex offenders register
 - and the conviction is less than 10 years prior to the date of the application.

Motoring Convictions

12.6 Major Traffic Offences

- 12.6.1 An isolated conviction, without disqualification, for an offence such as dangerous driving or driving without due care and attention will require careful consideration of the facts and will at the very least merit a warning as to future driving and advice on the standard expected of hackney carriage and private hire vehicle drivers. However, where the conviction is within 6 months prior to the date of the application the application will normally be refused.
- 12.6.2 More than one conviction for this type of offence within the last 5 years is likely to merit refusal.
- 12.6.3 A list of offences to which this paragraph applies can be found below.

Appendix D – Previous Convictions

12.7 Minor Traffic Offences

- 12.7.1 Isolated convictions for minor traffic offences should not prevent a person from proceeding with an application. However, the number, type and frequency of this type of offence will be taken into account and if there are several offences of this nature the applicant will normally be expected to show a period free of conviction of at least 6 months.
- 12.7.2 In particular, an application will normally be refused where the applicant has 6 or more penalty points on his DVLA licence (whether or not the applicant was convicted by a court for the offences for which the points were imposed) or where the applicant has more than one conviction for this type of offence within the last 6 months. **All applications with 6 or more points will be considered by the Licensing Manager to determine appropriate action.**
- 12.7.3 A list of offences to which this paragraph applies can be found below.

12.8 Hybrid Traffic Offences

- 12.8.1 Offences of the type listed below will be treated as major traffic offences if the court awarded 4 or more penalty points for the offence and as minor traffic offences if the court awarded 3 or less penalty points for the offence.

12.9 Disqualification

- 12.9.1 Where an applicant has been disqualified from driving because of a major traffic offence the application will generally be refused unless a period of 2 years free from conviction has elapsed from the restoration of the DVLA licence.
- 12.9.2 Where several minor traffic offences have resulted in the applicant being disqualified from driving for a period of time this will normally be taken as reflecting seriously on the applicant's driving standard. Generally, a period of 12 months free from conviction must have elapsed from the restoration of the DVLA licence.
- 12.9.3 In "totting-up" cases where disqualification is considered by the court, even if the court does not disqualify (e.g. because of exceptional circumstances) a driver the Council is likely to refuse a hackney carriage or private hire driver's licence because different criteria apply and an applicant will normally be expected to show a period of 12 months free from conviction from the date the court made its finding of exceptional circumstances justifying the non-disqualification.

Appendix D – Previous Convictions

12.10 Offences under the Town Police Clauses Acts and Part II of the Local Government (Miscellaneous Provisions) Act 1976 and Town Police Clauses Act 1847

- 12.10.1 One of the main purposes of the licensing regime set out in the Town Police Clauses Acts and Part II of the Local Government (Miscellaneous Provisions) Act 1976 ("the Acts") is to ensure the protection of the public. For this reason a serious view is taken of convictions for offences under the Acts (including illegally plying for hire) when deciding whether an applicant is to be treated as a fit and proper person to hold a licence.
- 12.10.2 In particular, an applicant will normally be refused a licence where (s)he has been convicted of an offence under the Acts at any time during the 6 months preceding the application or has more than one conviction within the last 2 years preceding the date of the application.

12.11 Drunkenness

With a motor vehicle

- 12.11.1 A serious view will be taken of convictions of driving or being in charge of a vehicle while under the influence of drink. Where a disqualification has occurred as a result of a drink-driving offence, at least 5 years free from conviction should elapse after the restoration of the DVLA licence before an applicant is granted a licence.
- 12.11.2 An isolated conviction for drunkenness, without disqualification, will require careful consideration of the facts and will at the very least merit a warning as to future driving and advice on the standard expected of hackney carriage and private hire vehicle drivers. More than one conviction for this type of offence or one such offence within the last five years is likely to merit refusal.
- 12.11.3 In addition, applicants will normally be required to show a period of at least 5 years has elapsed after completion of detoxification treatment if (s)he was an alcoholic.

Not in a motor vehicle

- 12.11.4 An isolated conviction for drunkenness need not debar an applicant from gaining a licence. In some cases, a warning may be appropriate. However, a number of convictions for drunkenness could indicate a medical problem necessitating critical examination and refusal of a licence.
- 12.11.5 In addition, applicants will normally be required to show a period of at least 5 years has elapsed after completion of detoxification treatment if (s)he was an alcoholic

12.12 Cautions and Endorsable Fixed Penalties

- 12.12.1 For the purpose of these guidelines formal cautions and endorsable fixed penalties shall be treated as though they were convictions and must be disclosed.

Appendix D – Previous Convictions

12.13 Spent Convictions and the Principles of The Rehabilitation of Offenders Act 1974

- 12.13.1 Under the 1974 Act, criminal convictions can become spent after a certain period of time, and once spent, for many purposes, can be disregarded completely.
- 12.13.2 The possibility of rehabilitation and the length of time before rehabilitation occurs depends on the sentence imposed, and not the offence committed.
- 12.13.3 Where a person is sentenced to imprisonment for a period exceeding thirty months, the conviction can never be spent.
- 12.13.4 Despite the above, the principles of the Act do not apply to applicants for hackney carriage and private hire drivers' licences. This is because the driving of these vehicles is listed as a 'Regulated Occupation' in relation to which questions may be asked as to the suitability of individuals to be granted a licence.
- 12.13.5 Although the Act does not prevent any judicial authorities, including the Licensing Authority, from taking spent convictions into account, such convictions are only admissible in so far as they are relevant to the issue as to whether the applicant is a 'fit and proper person' to hold a licence.
- 12.13.6 The determination as to whether certain convictions are spent, therefore, may be a relevant exercise.
- 12.13.7 The rehabilitation periods to which reference is most commonly made are set out below. For further details on the periods of rehabilitation applicable to all sentencing options, reference will need to be made to a specialist textbook on the Act

Sentence	Rehabilitation Period
Sentence of imprisonment or detention exceeding six months but not exceeding thirty months	Ten years
Sentence of cashiering, discharge with ignominy or dismissal with disgrace from Her Majesty's Service	Ten years
Sentence of imprisonment not exceeding six months	Seven years
Sentence of dismissal from Her Majesty's Service	Seven years
Sentence of detention in respect of a convictions in services disciplinary proceedings	Five years
A fine, compensation, probation, community service or combination order	Five years
Absolute discharge	Six months
Conditional discharge	One year or date of expiry of order
Action plan, curfew, drug treatment and testing order, or reparation order	Five years

Appendix D – Previous Convictions

12.14 MAJOR TRAFFIC OFFENCES

AC10	Failing to stop after an accident
AC20	Failing to give particulars or to report an accident within 24 hours
AC30	Undefined accident offences
BA10	Driving while disqualified by order of court
BA20	Attempting to drive while disqualified by order of court
CD10	Driving without due care and attention
CD20	Driving without reasonable consideration for other road users
CD30	Driving without due care and attention or without reasonable consideration for other road users
CD40	Causing death through careless driving when unfit through drink
CD50	Causing death by careless driving when unfit through drugs
CD60	Causing death by careless driving with alcohol level above the limit
CD70	Causing death by careless driving then failing to supply a specimen for analysis
DD40	Dangerous driving
DD60	Manslaughter or culpable homicide while driving a vehicle
DD80	Causing death by dangerous driving
DR10	Driving or attempting to drive with alcohol level above limit
DR20	Driving or attempting to drive while unfit through drink
DR30	Driving or attempting to drive then failing to supply a specimen for analysis
DR40	In charge of a vehicle while alcohol level above limit
DR50	In charge of a vehicle while unfit through drink
DR60	Failure to provide a specimen for analysis in circumstances other than driving or attempting to drive
DR70	Failing to provide specimen for breath test
DR80	Driving or attempting to drive when unfit through drugs
DR90	In charge of a vehicle when unfit through drugs
IN 10	Using a vehicle uninsured against third party risks
LC20	Driving otherwise than in accordance with a licence
LC30	Driving after making a false declaration about fitness when applying for a licence
LC40	Driving a vehicle having failed to notify a disability
LC50	Driving after a licence has been revoked or refused on medical grounds
MS50	Motor racing on the highway
MS60	Offences not covered by other codes
UT50	Aggravated taking of a vehicle

Aiding, abetting, counselling or procuring
Offences as coded above, but with 0 changed to 2 (e.g. IN10 becomes IN12)

Causing or permitting
Offences as coded above, but with 0 changed to 4 (e.g. IN10 becomes IN14)

Inciting
Offences as coded above, but with 0 changed to 6 (e.g. IN16 becomes IN16)

Appendix D – Previous Convictions

12.15 MINOR TRAFFIC OFFENCES

MS10	Leaving a vehicle in a dangerous position
MS20	Unlawful pillion riding
MS30	Play street Offences
MS40	Driving with uncorrected defective eyesight or refusing to submit to a test
MS70	Driving with uncorrected defective eyesight
MS80	Refusing to submit to an eyesight test
MS90	Failure to give information as to identity of driver, etc.

MW10 Contravention of Special Road Regulations (excluding speed limits)

PC10	Undefined contravention of Pedestrian Crossing Regulations
PC20	Contravention of Pedestrian Crossing Regulations with moving vehicle
PC30	Contravention of Pedestrian Crossing Regulations with stationary vehicle

TS10	Failing to comply with traffic light signals
TS20	Failing to comply with double white lines
TS30	Failing to comply with a "Stop" sign
TS40	Failing to comply with direction of a constable or traffic warden
TS50	Failing to comply with traffic sign (excluding "Stop" sign, traffic lights or double white lines)
TS60	Failing to comply with school crossing patrol sign
TS70	Undefined failure to comply with a traffic direction sign

Aiding, abetting, counselling or procuring

Offences as coded above, but with 0 changed to 2 (e.g. PC10 becomes PC12)

Causing or permitting

Offences as coded above, but with 0 changed to 4 (e.g. PC10 becomes PC14)

Inciting

Offences as coded above, but with 0 changed to 6 (e.g. PC16 becomes PC16)

HYBRID TRAFFIC OFFENCES

CU10	Using vehicle with defective brakes
CU20	Causing or likely to cause danger by reason of use of unsuitable vehicle or using a vehicle with parts or accessories (excluding brakes, steering or tyres) in a dangerous condition
CU30	Using a vehicle with defective tyre(s)
CU40	Using a vehicle with defective steering
CU50	Causing or likely to cause danger by reason of load or passengers

SP10	Exceeding goods vehicle speed limit
SP20	Exceeding speed limit for type of vehicle (excluding goods or passenger vehicles)
SP30	Exceeding statutory speed limit on a public road
SP40	Exceeding passenger vehicle speed limit
SP50	Exceeding speed limit on a motorway
SP60	Undefined speed limit offence

Aiding, abetting, counselling or procuring

Offences as coded above, but with 0 changed to 2 (e.g. CU10 becomes CU12)

Causing or permitting

Offences as coded above, but with 0 changed to 4 (e.g. CU10 becomes CU14)

Inciting

Offences as coded above, but with 0 changed to 6 (e.g. CU10 becomes CU16)

Appendix E – Residency outside the UK

13 APPENDIX E

13.1 Residency outside the UK

13.1.1 If you are not a British national you must provide documentation to show you are permitted to work in the United Kingdom and complete this form.

**HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER LICENSING
DETAILS OF RESIDENCY OUTSIDE THE UNITED KINGDOM**

Full Name	Surname	Forename(s)
Address		
Have you ever been a resident of a country other than the United Kingdom	Yes – if so please provide details below of the dates and countries of which you have been resident	No - if so please sign below and return the form with your application
Date of Residency		
Name of Country	From	To

1. If you are not a British national you MUST provide documentation to show that you are permitted to work in the United Kingdom.
2. Under section 57(3) of the Local Government (Miscellaneous Provisions) Act 1976, if any person knowingly or recklessly makes a false statement or omits any material particular in giving information under this section he shall be guilty of an offence.

DECLARATION

I declare that:-

- a. I have checked the details above and that to the best of my knowledge and belief they are true and correct in every respect.
- b. I am not barred from taking up employment in the United Kingdom.
- c. I confirm that I have read and understood each section of this form and answered to best of my knowledge, belief and ability.

NAME:

SIGNATURE:

DATE:

Appendix F – Knowledge Tests

14 APPENDIX F

DRIVER KNOWLEDGE TESTS

14.1 Introduction

- 14.1.1 All new applicants for either a private hire or hackney drivers badge will need to take a written knowledge test.
- 14.1.2 Where a probationary badge has been issued only the Hackney Carriage Driver will be required to take the knowledge test.
- 14.1.3 All elements of the test must achieve the required pass mark. The required pass mark for the routes is 80%, with all successful candidates will need to achieve an overall pass mark of 70%.
- 14.1.4 A candidate can retake the knowledge test a further two times before being invited for a final one to one assessment meeting with a Licensing Officer.
- 14.1.5 All questions will be held on a data base and selected at random; therefore no test paper will ever be the same.
- 14.1.6 Details of the knowledge test will be sent out in advance of the test taking place.
- 14.1.7 Knowledge tests will be monthly and will last for up to 1 hour.
- 14.1.8 Any person found cheating will be disqualified from the test and another application will not be accepted for a period of one year.
- 14.1.9 Tests will be marked within 1 week and applicants informed of the result unless any unforeseen circumstances.
- 14.1.10 Authorised officers will not enter into any discussion regarding the outcome of the test.

14.2 The Knowledge Test

- 14.2.1 The test will consist of four parts;
- (i) Ten Routes
 - (ii) Ten questions on places of interest within Tonbridge and Malling Borough Council
 - (iii) Identify Towns and villages on a map
 - (iv) Twenty multiple choice questions about topics (traffic signs, differences between private hire and hackney carriage vehicles, understanding what change needs to be given etc) you would encounter while being a taxi driver.

Appendix G – Private Hire Driver Licence Conditions

15 APPENDIX G

PRIVATE HIRE DRIVER'S LICENCE CONDITIONS

15.1 Conduct of Driver

- 15.1.1 The holder of a private hire driver's licence (hereafter known in this Appendix as the driver) shall comply with the following conditions, which should be read in conjunction with the Code of Conduct set out in **APPENDIX I**
- 15.1.2 The driver shall be respectably dressed, clean and tidy in appearance at all times whilst his vehicle is being made available for hire.
- 15.1.3 The driver shall at all times, when acting in accordance with the drivers licence granted to him, wear such badge as supplied by the Council in such a position and manner as to be plainly and distinctly visible at all times.
- 15.1.4 The driver shall not lend the badge to any other person or cause or permit any other person to wear it.
- 15.1.5 All licences, badges and plates remain the property of the Council at all times. They must be returned forthwith when employment as a licensed driver ceases, the licence expires or is not renewed, or where the licence is suspended or revoked.
- 15.1.6 The driver shall behave in a civil, polite and orderly manner and shall take all reasonable precautions to ensure the safety of persons conveyed in, or entering or alighting from, the vehicle.
- 15.1.7 The driver shall not wilfully or negligently cause or permit the vehicle licence plate to be concealed from public view, or allow the licence plate to be so defaced as to make any figure or information illegible.
- 15.1.8 The driver who has agreed to, or has been hired to, be in attendance with the vehicle at an appointed time and place shall, unless delayed or prevented by some sufficient cause, punctually attend with such vehicle as such appointed time and place.
- 15.1.9 The driver when hired to drive to a particular destination shall proceed to that destination by the shortest available route.
- 15.1.10 The driver shall not convey, or permit to be conveyed, in such vehicle any greater number of persons than the number of persons specified on the vehicle licence.
- 15.1.11 The driver shall convey a reasonable amount of luggage and afford reasonable assistance in loading and unloading luggage.
- 15.1.12 The driver must not solicit, by calling out or otherwise importune, any person to hire or be carried for hire and must not accept an offer for the hire of the vehicle except where that is first communicated to the driver by PDA, Radio or telephone from the Operator.
- 15.1.13 The vehicle shall be presented in a clean and tidy condition for each journey.

Appendix G – Private Hire Driver Licence Conditions

- 15.1.14 The private hire vehicle must only be driven with the consent of the proprietor of the vehicle.
- 15.1.15 The driver must not drink or eat in the vehicle whilst in the presence of customers.
- 15.1.16 The driver must comply with any hirer's request not to play any radio or sound equipment which is not connected with the operation of the business.
- 15.1.17 The driver must ensure that the noise emitted from any sound equipment in the vehicle does not cause annoyance to any persons, whether inside or outside the vehicle.
- 15.1.18 The driver shall not operate the horn late at night as a means of signalling that the vehicle has arrived.
- 15.1.19 The drivers must not cause or permit the vehicle to stand on a public road, on a hackney carriage rank, or in a public place so as to suggest that it is plying for, or available for, hire.
- 15.1.20 Drivers must not use a mobile phone whilst driving unless it is designed for hand-free operation.
- 15.1.21 Any change affecting the licence must be notified in writing to the Council. Notification should be as soon as reasonably practicable and in any event, no later than seven days after the change was effected.
- 15.1.22 If the driver is convicted or bound over for any offence, he shall within 7 days give details in writing of the conviction or binding over to the Council.
- 15.1.23 The private hire driver's licence must be made available for inspection, upon request, by any authorised officer of the Council or any police officer.
- 15.1.24 The driver must notify the Council within seven days of starting or terminating employment, as to the name and address of the proprietor concerned and the date when the employment either started or ended.
- 15.1.25 The private hire driver's licence must be presented to the proprietor concerned at the beginning of the employment.
- 15.1.26 In accordance with section 50(3) of the Local Government (Miscellaneous Provisions) Act 1976, any accident to a private hire vehicle causing damage materially affecting:
- a. The safety, performance or appearance of the vehicle
 - b. The comfort or convenience of the passengers
- must be reported to the Council as soon as reasonably practicable, and in any case within 72 hours of the accident.
- 15.1.27 A driver must carry assistance dogs when required. Assistance dogs include guide dogs for the blind or partially sighted, hearing dogs for the hard of hearing, and other assistance dogs which assist disabled people with a physical impairment. Any driver with a medical condition, which may be exacerbated by dogs, may apply for exemption from this condition. On production of suitable medical evidence, a certificate of exemption will be issued which must be carried in the vehicle at all times. Unless the certificate of exemption is available in the vehicle, the exemption will not apply.

Appendix G – Private Hire Driver Licence Conditions

15.2 Medical Fitness of Driver

- 15.2.1 The driver of a private hire vehicle must at any time, or at such intervals as the Council may reasonably require, produce a certificate issued by the Council's medical examination provider to the effect that he is, or continues to be, physically fit to be a driver of a private hire vehicle.
- 15.2.2 The driver must cease driving any private hire vehicle and contact the Council immediately if they know of any medical condition which may affect their:
- i. Driving ability
 - ii. The health and safety of themselves or any passengers.

15.3 Fares and Journeys

- 15.3.1 The driver/operator of a private hire vehicle may make their own agreement with the hirer as to the fare for a particular journey.
- 15.3.2 The driver shall, if requested by the hirer, provide him with a written receipt for the fare paid.
- 15.3.3 If the vehicle is fitted with a taximeter, then the driver of a private hire vehicle must:
- I. Unless the hirer expresses at the commencement of the journey his desire to engage by time, bring the meter into operation at the commencement of the journey, and bring the machinery of the taxi-meter into action by moving the said key, flag or other device, before beginning a journey and keep the machinery of the taxi-meter in action until the termination of the hiring.
 - II. **When standing (stationary), keep the key, flag or other device fitted for that purpose locked in the position in which no fare is recorded on the face of the meter. The meter must not show a fare until the journey commences.**
 - III. Cause the dial of the taxi-meter to be kept properly illuminated throughout any part of the hiring which is during the hours of darkness as defined for the purposes of the Road Traffic Act 1972, and also at any other time at the request of the hirer.
 - IV. Not demand from any hirer of a private hire vehicles a fare in excess of any previously agreed for that hiring between the hirer and the operator or, if the vehicle is fitted with a fare meter, the fare shown on the face of the taxi-meter.
- 15.3.4 In the event of a journey commencing in but ending outside the Borough of Tonbridge and Malling there may be charged, for the journey, such fare or rate (if any) as was agreed before the hiring was effected. If no such agreement was made then the fare to be charged should be no greater than that determined by the taxi-meter.

Appendix G – Private Hire Driver Licence Conditions

15.4 Wheelchair Accessible Vehicles

15.4.1 All drivers of wheelchair accessible vehicles must:

- I. Be fully conversant with the correct method of operation of all ramps, lifts and wheelchair restraints fitted to the vehicle.
- II. Before any movement of the vehicle takes place, ensure that all wheelchairs are firmly secured to the vehicle using an approved restraining system and the brakes of the wheelchair have been applied.
- III. Ensure that any wheelchairs, equipment and passengers are carried in such a manner that no danger is likely to be caused to those passengers, or to anyone else, in accordance with the regulations detailed in section 100 of the Road Vehicles (Constructions and Use) Regulations 1

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Appendix H – Penalty Points System

16 APPENDIX H

PENALTY POINTS SYSTEM

- 16.1** This scheme will be used to enforce current legislation and any future bye laws in respect of Hackney Carriage Drivers and will be operated as follows:
- 16.1.1 The Council's Taxi Licensing and Enforcement Policy will be fully considered by an authorised officer when determining the manner on which any breach of legislation or the requirements of this Policy are dealt with.
 - 16.1.2 Where it is decided that the use of the penalty points system is appropriate, the points will be issued in accordance with this appendix. If this appendix allows a range of points for a particular incident, the authorised officer will determine the appropriate number of points proportionate to the offence.
 - 16.1.3 Penalty points will only be imposed where the licensee agrees the breach or offence has taken place. Where the licensee does not agree that the breach or offence has taken place the matter will be referred in the first instance to the Licensing Manager for consideration regarding further action.
 - 16.1.4 The imposition of penalty points against a driver who is an employee will not necessarily result in additional imposition of points to his/her employer or operator. However the Council retains the discretion to issue penalty points to drivers, driver/proprietors and operators for a single contravention if the circumstances warrant it i.e. the breach is one against all these licences and it is considered joint responsibility is held.
 - 16.1.5 Points issued to either a proprietor or driver will be confirmed in writing.
 - 16.1.6 When issued, the penalty points will remain "live" for a period of two years from the date they are imposed so that only points accumulated in a rolling twenty four months period will be taken into account.
 - 16.1.7 There is no financial penalty associated with the system, and the licensee may continue to work. However, the licensee may be asked to attend either a meeting with the Licensing Manager or attend a hearing of the Licensing and Appeals panel if 12 penalty points are imposed on an individual licence in any one 24 month period, where appropriate action will be taken in accordance with this policy.
 - 16.1.8 Where a driver, proprietor or operator attains more than 12 penalty points, disciplinary options available to the Licensing and Appeals panel will include suspension or revocation of the driver's licence, where appropriate.
 - 16.1.9 If it is felt that the matter does not warrant suspension or revocation of the licence, the period for which the points are to remain "live" may be extended or a written warning may be issued to the driver as to his future conduct.
 - 16.1.10 Periods of suspension of a licence will be dependent of the nature of the breaches of the legislation or the requirements of this Policy and the compliance history of the licence holder.

Appendix H – Penalty Points System

- 16.1.11 1A driver will always have the right to be represented at any meeting, either legally or otherwise, and to state any mitigating circumstances he deems necessary.
- 16.1.12 Any driver or vehicle proprietor or operator subject to suspension or revocation has the right of appeal to the Magistrates Court. All suspensions will therefore be subject to a 21-day appeals period prior to implementation to allow for the formal appeals process.
- 16.1.13 The penalty points system will operate without prejudice to the Council's ability to take other action under appropriate legislation or as provided for by this policy.
- 16.1.14 The penalty points system outlined below identifies a number of breaches of conditions, byelaws and/or statutory provisions. It then indicates the number of points to be invoked should the breach be proven.

16.2 Penalty Points Tariff

- 16.2.1 Two statutes principally create offences relating to hackney carriages and private hire vehicles –
- I. Town Police Clauses Act 1847
 - II. Local Government (Miscellaneous Provisions) Act 1976
- 16.2.2 The offences are set out below under the relevant statute
- 16.2.3 In relation to the maximum penalties specified, the levels of fine are currently as follows:
- Level 1 - £200
 - Level 2 – £500
 - Level 3 - £1,000
 - Level 4 - £2,500
- 16.2.4 Any subsequent amendments to the legislation will supersede the tables below and this appendix may be amended to reflect the revised legislation by way of an addendum to this policy.

Appendix H – Penalty Points System

Town Police Clauses Act 1847			
Section	Offence	Level of Fine	Penalty Points
40	Giving false information on a hackney carriage licence application	1	12
44	Failure to notify change of address on a hackney carriage licence	1	2
45	Plying for hire without a hackney carriage licence	4	8-12
47	Driving a hackney carriage without a hackney carriage driver's licence	3	8 -12
47	Lending or parting with a hackney carriage driver's licence	3	4
47	Hackney carriage proprietor employing an unlicensed driver	3	8
48	Failure of a proprietor to hold a hackney carriage driver's licence	1	6
48	Failure of a proprietor to produce a hackney carriage driver's licence	1	3
52	Failure to display a hackney carriage plate	1	4
53	Refusal to take a fare without a reasonable excuse	2	6-12
54	Charging more than the agreed fare	1	6-12
55	Obtaining more than the legal fare (including failure to refund)	3 and 1 month's imprisonment	6-12
56	Travelling less than the lawful distance for an agreed fare	1	6
57	Failure to wait after a deposit to wait has been paid	1	6
58	Charging more than the legal fare	3	12
59	Carrying persons other than with the consent of the hirer	1	8
60	Driving a hackney carriage without the proprietor's consent	1	6-12
60	Allowing a person to drive a hackney carriage without the proprietor's consent	1	6-12
62	Driver leaving a hackney carriage unattended	1	2
64	Hackney carriage driver obstructing other hackney carriages	1	3

Appendix H – Penalty Points System

Local Government (Miscellaneous Provisions) Act 1976			
Section	Offence	Level of Fine	Penalty Points
46(1)(A)	Using an unlicensed private hire vehicle	3	12
46(1)(b)	Driving a private hire vehicle without a private hire driver's licence	3	12
46(1)(c)	Proprietor of a private hire vehicle using an unlicensed driver	3	8
46(1)(d)	Operating a private hire vehicle without a private hire operators' licence	3	8
46(1)(e)	Operating a vehicle as a private hire vehicle when the vehicle is not licensed as a private hire vehicle	3	12
46(1)(e)	Operating a private hire vehicle when the driver is not licensed as a private hire driver	3	8
48(6)	Failure to display a private hire vehicle plate	3	4
49	Failure to notify the transfer of a vehicle licence	3	3
50(1)	Failure to present a private hire vehicle for inspection upon request		6-12
50(2)	Failure to inform the Council where a private hire vehicle is stored, if requested	3	3
50(3)	Failure to report an accident to the Council within seventy two hours	3	6
50(4)	Failure to produce the private hire vehicle licence and insurance certificate upon request	3	8-12
53(3)	Failure to produce a driver's licence upon request	3 by virtue of s76	3
54(2)	Failure to wear a private hire driver's badge	3	4-6
56(2)	Failure of a private hire operator to keep proper records of all bookings, or failure to produce them upon request of an authorised officer of the Council or a police officer	3 by virtue of s76	6
56(3)	Failure of a private hire operator to keep proper records of all private hire vehicles, or failure to produce them on request of an authorised officer of the Council or a police officer	3	6
56(4)	Failure of a private hire operator to produce his licence upon request	3	4
57	Making a false statement or withholding information to obtain a hackney carriage private hire driver's licence	3	12

Appendix H – Penalty Points System

Local Government (Miscellaneous Provisions) Act 1976			
Section	Offence	Level of Fine	Penalty Points
57	Making a false statement or withholding information to obtain a hackney carriage private hire driver's licence	3	12
58(2)	Failure to return a plate after notice has been given following expiry, revocation, or suspension of a private hire vehicle licence	3	6-12
61(2)	Failure to surrender a driver's licence after suspension, revocation, or refusal to renew	3	6-12
64	Permitting any vehicle other than a hackney carriage to wait on a hackney carriage rank	3	6
66	Charging more than the meter fare for a journey ending outside the District, without prior agreement	3	6-12
67	Charging more than the meter fare when a hackney carriage is used as a private hire vehicle	3	6-12
69	Unnecessarily prolonging a journey	3	6-12
71	Interfering with a taxi-meter with intent to mislead	3	12
73(1)(a)	Obstruction of an authorised officer of the Council or a police officer	3	12
73(1)(b)	Failure to comply with a requirement of an authorised officer of the Council or a police officer	3	6-12
73(1)(c)	Failure to give information or assistance to an authorised officer of the Council or police officer	3	6-12

Appendix H – Penalty Points System

	Breach of Policy Requirement	Points
P1	Failure to wear a driver's badge	4-6
P2	Failure to adhere to the Code of Good Conduct for Licensed Drivers where not mentioned below	2-6
P3	Failure to ensure the safety of passengers	8-12
P4	Concealing or defacing a vehicle licence plate	6
P5	Failure to attend on time for a pre-arranged booking without reasonable cause	2
P6	Conveying a greater number of passengers than permitted	6
P7	Failure to give reasonable assistance with passenger's luggage	3
P8	Private hire soliciting for hire or accepting a fare that is not pre-booked	6-12
P9	Operating/using a vehicle that is not clean and tidy and in a safe condition internally or externally	3 - 6
P10	Driving without the consent of the proprietor	6
P11	Drinking or eating in the vehicle whilst carrying passengers	2
P12	Smoking in the vehicle at any time	6
P13	Causing excessive noise from any radio or sound-reproducing equipment	2
P14	Sounding the horn late at night to signal that the vehicle has arrived disturbing residents	2
P15	Allowing a private hire vehicle to stand in such a position as to suggest that it is plying for hire or using a hackney carriage stand	6
P16	Using a non-hands free mobile telephone whilst driving	12
P17	Failure to advise of a relevant medical condition	6-12
P18	Failure to provide a receipt for a fare when requested	2
P19	Failure to operate the meter from the commencement of the journey and /or charging more than the fixed charge for hire of a hackney carriage	4-12
P20	Failure to notify the Council of any amendment to the details of your DVLA licence (change of personal details or points being given) within fourteen days of the date printed on the amended licence.	3
P21	Failure to produce a licence upon request	3

Appendix H – Penalty Points System

	Breach of Policy Requirement	Points
P22	Failure to notify within seven days of starting or terminating employment, the name and address of the proprietor and the term of employment	3
P23	Failure to show a private hire driver's licence to the private hire operator at the commencement of employment	2
P24	Failure of a private hire operator to request and/or record details of a private hire driver's licence at the beginning of employment	2
P25	Failure to surrender a driver's licence, badge or plate upon request	6-12
P26	Failure of a licence holder to disclose convictions within seven days of conviction	12
P27	Carrying any animal other than a guide, hearing or other prescribed assistance dog or those owned by bone-fide fare paying passengers	2
P28	Failure to search a vehicle after a journey or failure to take found property to the police within forty eight hours of finding	3
P29	Failure to report an accident within seventy two hours	3
P30	Failure to comply with requirements for the safe carrying of a wheelchair	6
P31	Operating a vehicle that does not comply with the Council's licensing policy where such a breach of policy requirements is not otherwise specified herein	2-6
P32	Operating/using a vehicle which is not maintained in a sound and roadworthy condition	6-12
P33	Modifying a vehicle without the consent of the Council	12
P34	Failure to display or maintain external plates as issued by the Council or displaying them incorrectly e.g. in the window of a vehicle	4
P35	Failure to display or maintain Internal plates as issued by the Council or displaying them incorrectly (displayed in a position at the top offside corner of the front windscreen)	4
P36	Affixing or displaying a roof sign on a private hire vehicle	12
P37	Displaying a sign or advertisement on a licensed vehicle that does not satisfy the policy requirements or has not been approved by the Council	4

Appendix H – Penalty Points System

	Breach of Policy Requirement	Points
P38	Carrying radio equipment or similar devices not in accordance with Council requirements	2
P39	Using a taxi-meter that does not conform to Council requirements	6
P40	Driving with no insurance or inadequate insurance for the vehicle	12
P41	Permitting the vehicle to be used for any illegal or immoral purposes	12
P42	Failure of a private hire operator to ensure that office staff act in a civil and courteous manner at all times	3
P43	Failure of a private hire operator to keep the operating premises in accordance with council requirements	3
P44	Failure of a private hire operator to ensure that all vehicles operated by him are adequately insured	12
P45	Failure of a private hire operator to obtain public liability insurance for the operating premises if the public are allowed access	12
P46	Failure to display Insignia on exterior of the two front doors of the vehicle	3
P47	Failure to keep a copy of a valid insurance certificate in the vehicle	3
P58	Failure to display the current fare chart so that it is clearly visible to passengers	3
P49	Failure to have a working Hackney Carriage Roof Light that is lit when available for hire	3

17 APPENDIX I

17.1 Code of good conduct for licensed drivers

- 17.1.1 In order to promote its licensing objectives as regards hackney carriage and private hire licensing, the Council has adopted the following Code of Good Conduct, which should be read in conjunction with the other statutory and policy requirements set out in this document.

17.2 Responsibility to the Trade

- 17.2.1 Licence holders shall endeavour to promote the image of the hackney carriage and private hire trade by:
- i. complying with this Code of Conduct
 - ii. complying with the Council's Hackney Carriage and Private Hire Licensing Policy
 - iii. behaving in a civil, orderly and responsible manner at all times.

17.3 Responsibility to Clients

- i. Licence holders shall:
- ii. maintain their vehicles in a safe and satisfactory condition at all times
- iii. keep their vehicles clean and suitable for hire to the public at all times
- iv. attend punctually when undertaking pre-booked hiring
- v. assist, where necessary, passengers' ingress to and egress from vehicles
- vi. offer passengers reasonable assistance with luggage

17.4 Responsibility towards Council Employees

- 17.4.1 Licensed drivers are expected to be polite and courteous at all times and to comply with any reasonable request made by a Licensing or Civil Enforcement Officer. Verbal or physical abuse will not be tolerated.

Appendix I – Good conduct for licensed drivers

17.5 Responsibility to Residents

- 17.5.1 To avoid nuisance to residents when picking up or waiting for a fare, a driver shall:
- a) not sound the vehicle's horn illegally
 - b) keep the volume of all audio equipment and two-way radios to a minimum
 - c) switch off the engine if required to wait
 - d) take whatever additional action is necessary to avoid disturbance to residents in the neighbourhood
 - e) at hackney carriage ranks, in addition to the requirements above:
 1. rank in an orderly manner and proceed along the rank in order and promptly
 2. remain in the vehicle
 - f) at private hire offices:
 1. not undertake servicing or repairs of vehicles
 2. not allow volume of all audio equipment and two-way radios to unduly disturb residents of the neighbourhood
 3. take whatever additional action is necessary to avoid disturbance to residents in the neighbourhood, which might arise from the conduct of their business.

17.6 General

- 17.6.1 Drivers shall:
- i. pay attention to personal hygiene and dress, so as to present a professional image to the public
 - ii. be polite, helpful and fair to passengers
 - iii. drive with care and due consideration for other road users and pedestrians and, in particular, shall not use a hand held mobile phone whilst driving
 - iv. obey all Traffic Regulation Orders and directions at all time
 - v. not smoke at any time when inside the vehicle
 - vi. not consume alcohol immediately before, or at any time whilst driving or being in charge of a hackney carriage or private hire vehicle (*any amount of alcohol can affect a drivers' judgement*)
 - vii. not drive while having misused legal or illegal drugs (*any amount of drugs can affect a drivers' judgement*). If a driver properly uses prescription drugs that make him drowsy he should not drive
 - viii. fulfil their responsibility to ensure compliance with legislation regarding the length of working hours
 - ix. not eat in the vehicle in the presence of customers

Appendix I – Good conduct for licensed drivers

17.7 Disciplinary Hearings

17.7.1 Drivers should be aware of the powers the Council has to take action, by way of suspension, revocation or refusal to renew a driver's licence where:

- I. the driver has been convicted, since the grant of the licence, of an offence involving dishonesty, indecency or violence
- II. the driver has been convicted of an offence under any legislation relating to hackney carriage or private hire regulation
- III. the driver has breached any requirements of the Council's Hackney Carriage and Private Hire Licensing Policy
- IV. there is a breach of condition of this code

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Appendix J – Private Hire Operators - conditions

18 APPENDIX J

PRIVATE HIRE OPERATORS LICENCE CONDITIONS

18.1 Standards of Service

18.1.1 The operator shall:

- a. Provide a prompt, efficient and reliable service to members of the public at all reasonable times.
- b. Ensure that their office staff act in a civil and courteous manner at all times.
- c. Ensure that when a vehicle has been hired, it arrives punctually at the appointed place, unless delayed, informing the client of any unforeseen circumstances.
- d. Ensure that premises provided for the purpose of booking or waiting are kept clean and are adequately lit, heated and ventilated.
- e. Ensure that any waiting area provided has adequate seating facilities and telephone facilities are in good working order.
- f. Fulfil their responsibilities to ensure compliance with legislation regarding the length of working hours.

18.2 Records

- 18.2.1 Records, which must be kept by private hire operators under the Local Government (Miscellaneous Provisions) Act 1976, shall be kept in a suitable electronic log or book.
- 18.2.2 All records shall be maintained by the operator shall be kept for at least twelve months after entry and shall be produced for inspection, on request, by any authorised officer of the Council or any police officer.
- 18.2.3 The private hire operator's licence shall similarly be available for inspection upon request by any authorised officer of the Council or any police officer.
- 18.2.4 The operator shall, at all times keep a copy of these conditions at any premises used by him for a private hire business and shall make the same available for inspection by fare-paying passengers.

18.3 Bookings

- 18.3.1 Prior to each journey, the operator shall enter the following particulars of every booking of a private hire vehicle accepted, pursuant to section 56(2) of the Local Government (Miscellaneous Provisions) Act 1976, namely the:

Appendix J – Private Hire Operator’s - conditions

- a) Date of the booking
- b) Name and address of the hirer
- c) Time of pick-up
- d) Address of the point of pick-up
- e) Destination
- f) Time at which a driver was allocated to the booking, plate number (or other identification) of the vehicle allocated and fare (if agreed between the operator and hirer at the time of booking).

18.4 Vehicles

18.4.1 The operator shall keep records of the particulars of all private hire vehicles operated by him, pursuant to section 56(3) of the Local Government (Miscellaneous Provisions) Act 1976, namely the:

- a) Type, make, model, colour and engine size of vehicles
- b) Year when the vehicle was first licensed for private hire
- c) Vehicle registration numbers
- d) Number of seats for passengers
- e) Owners of the vehicles
- f) Insurance details of vehicles
- g) Method of charging, i.e. whether or not a meter is fitted
- h) Private hire vehicle plate numbers

18.5 Drivers

18.5.1 The operator shall keep records of the particulars of all drivers of private hire vehicles operated by him, pursuant to section 56(3) of the Local Government (Miscellaneous Provisions) Act 1976, namely:

- a) The names and addresses of drivers, and their call signs if any
- b) Date any new driver begins service
- c) Date when any drivers service ceases
- d) Any change of address of any driver in service
- e) Any illness, disability or condition which may affect the driver’s ability to safely carry out his duties, if the operator becomes aware of any such condition they must inform the Licensing Authority in writing immediately.
- f) Expiry dates of drivers badges and vehicle licences

Appendix J – Private Hire Operator’s - conditions

18.6 Disclosure of Convictions

- 18.6.1 The operator shall, within seven days of conviction, notify the Council in writing, of any conviction or fixed penalty notice imposed on him during the period of duration of his operator’s licence.
- 18.6.2 If the operator is a company or partnership, this requirement shall equally apply if any of the directors or partners receives a conviction or fixed penalty notice.

18.7 Insurance

- 18.7.1 The operator shall ensure that a certificate of motor insurance covers every private hire vehicle operated by him under the operator’s licence, which is compliant with the Road Traffic Act 1988 as regards the carriage of passengers for hire or reward.
- 18.7.2 If the private hire operator has premises to which the public have access, in connection with the hiring of vehicles, he shall ensure that there is public liability insurance in force, which indemnifies him against any claim for loss, damage or personal injury by any person using those premises.

18.8 Private Hire Drivers’ Licences

- 18.8.1 The operator shall ensure that every driver engaged by him has obtained a private hire driver’s licence obtained by the same Licensing Authority which issued the private hire operator’s licence. The operator shall ensure that all drivers have a badge issued by the Council and that the drivers wear the badge in a conspicuous place at all times whilst available for hire

18.9 Miscellaneous

- 18.9.1 If a licensed operator changes either his home or business address, he must, within seven days, give written notice to the Council specifying his new address.
- 18.9.2 The operator shall ensure that the licence plate issued and allocated by the Council is permanently fixed to the rear of the vehicle in a conspicuous upright position and in a manner as approved by an authorised officer.
- 18.9.3 The operator shall ensure the licence plate is maintained in a clean and legible condition and shall inform the Council immediately if it becomes lost, broken or defaced.
- 18.9.4 To operate a private hire business from home, planning permission will normally be required. A private hire operator’s licence will not be granted without evidence that either planning permission has been issued for the premises concerned, or planning permission is not required for the use proposed.

Appendix J – Private Hire Operator’s - conditions

18.9.5 An operator’s licence is liable to suspension or revocation on any of the following grounds:

- a. Any offences under, or non-compliance with, the provisions of Part II, Local Government (Miscellaneous Provisions) Act 1976
- b. Any conduct on the part of the operator which appears to the council to render him unfit to hold an operator’s licence.
- c. Any material change since the licence was granted in any of the circumstances of the operator on the basis of which the licence was granted
- d. Any other reasonable cause.

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Appendix K – Enforcement Policy

19 APPENDIX K

HACKNEY CARRIAGE AND PRIVATE HIRE ENFORCEMENT POLICY

19.1 Enforcement Policy Statement

19.1.1 It is the policy of Tonbridge and Malling Borough Council to ensure that taxi drivers and operators are licensed correctly and carry out their trade in accordance with both the relevant law and the conditions attached to the licences.

19.1.2 This policy is in accordance with the Regulators' Compliance Code and the regulatory principles set out in the Legislative & Regulatory Reform Act 2006. The Council will seek to adopt a positive and proactive approach towards ensuring compliance, in accordance with the following key principles –

Economic progress – the Council recognises that a key element of our enforcement activity will be to allow/ encourage economic progress and we shall only intervene where there is a clear case for protection

Risk Assessment – we shall use a comprehensive risk assessment to concentrate resources in the areas that need them most

Advice and guidance – we will provide authoritative, accessible advice easily and cheaply

Compliance and enforcement actions – the few businesses that persistently break statutory requirements will be identified quickly and face proportionate and meaningful sanctions

Accountability – the Council will be accountable for the efficiency and effectiveness of its activities, while remaining independent in the decisions it takes,

19.1.3 All enforcement action, be it verbal warnings, the issue of written warnings, penalty points, statutory notices, appearance before the committee or prosecution, will primarily be based upon the seriousness of the breach and the possible consequences arising out of it. Enforcement action will not, therefore, constitute a punitive response to minor technical contraventions of legislation

19.1.4 Authorised officers, when making enforcement decisions, will abide by this policy. Any departure from the policy must be exceptional, capable of justification, be fully considered and be endorsed by the Licensing Manager or above before the decision is taken (unless it is considered that there is significant risk to the public in delaying the decision).

19.1.5 Authorised officers must be fully acquainted with the requirements of the policy and appropriate training will be provided where required.

Appendix K – Enforcement Policy

- 19.1.6 Officers will be authorised by the Licensing Manager to take enforcement actions relevant and appropriate to their level of competence. Competency will be assessed individually by reference to qualifications and experience.

19.2 Enforcement Options

- 19.2.1 Achieving and maintaining a consistency of approach to making all decisions that concern taxi licensing and enforcement action, including prosecution, is of paramount importance. To achieve and maintain consistency, it is vital that the policy guidelines are always considered and followed where appropriate.

- 19.2.2 Enforcement decisions must always be consistent, balanced, proportionate and relate to common standards which ensure that the public is adequately protected. In reaching any decision many criteria must be considered including the:-

- seriousness of any offences;
- driver or operator's past history;
- consequence of non-compliance;
- likely effectiveness of the various enforcement options;
- the economic consequences of enforcement
- danger to the public.

- 19.2.3 Having considered all relevant information and evidence, the choices for action are:-

- take no action;
- take informal action;
- issue penalty points (see Appendix H)
- use statutory notices, (stop notices etc.);
- suspend a licence;
- revoke a licence;
- use simple cautions;
- prosecute
- a combination of any of the above

- 19.2.4 This policy document provides detailed guidance applicable to the various options for enforcement action.

19.3 Informal Action

- 19.3.1 Informal action to secure compliance with legislation includes offering advice, verbal and written warnings and requests for action and the use of letters.

- 19.3.2 Such informal enforcement action may be appropriate in any of the following circumstances:-

- the act or omission is not serious enough to warrant more formal action;
- it can be reasonably expected that informal action will achieve compliance, perhaps by taking into account the individual driver or operator's past history;
- confidence in the operator's management is high;

Appendix K – Enforcement Policy

- the consequences of non-compliance will not pose a significant risk to the safety of the public.

Even where some of the above criteria are not met, there may be circumstances in which informal action will be more effective than a formal approach.

19.4 Appearance before the Licensing & Appeals Panel

- 19.4.1 An offending individual or company may be summoned before the Licensing and Appeals Panel to answer allegations of breaches of relevant legislation or conditions attached to licences or a contravention of this policy.
- 19.4.2 Current licence holders who report convictions or breach relevant legislation during the period of their licence may also be brought before the Licensing and Appeals Panel.
- 19.4.3 The Panel may decide to take one or more of the following actions:-
- no action;
 - a written warning;
 - require the production of driving licences or other specified documentation at the Council's Office;
 - suspend a licence;
 - revoke a licence;
 - recommend prosecution action
 - other appropriate action as deemed necessary

19.5 Section 68 Notices (Stop Notices)

- 19.5.1 An authorised officer may serve notice in writing for a hackney carriage or private hire vehicle or the taximeter affixed to such vehicle to be examined at the Council's appointed garage at a time specified in the notice. This notice must only be served having had due regard to the condition of the vehicle or with reasonable grounds to suspect the accuracy of the taximeter.
- 19.5.2 An authorised officer may, in addition to requiring the vehicle to be tested, suspend the vehicle licence until such time as he is satisfied with the condition of the hackney carriage or private hire vehicle. This action will only be taken when he has reasonable grounds to suspect that the condition of the vehicle is an immediate danger to passenger and/or other road users.
- 19.5.3 The suspension notice will remain in place until such time as the Officer issuing the notice is satisfied that the grounds for suspension have been satisfactorily resolved. Written confirmation of the lifting of the suspension notice will be given. Until such time as written confirmation has been received, the suspension notification will remain active.

Appendix K – Enforcement Policy

19.5.4 If the Authorised Officer who issued the suspension notice is not satisfied that the appropriate action has been taken to allow the suspension notice to be withdrawn within a period of two months from the date of issue, the vehicle licence shall be deemed to be revoked.

19.6 Appeals

19.6.1 Appeals against decisions of the Licensing and Appeals Panel or authorised officers may be made to the Magistrates' Court.

19.6.2 Any notifications of enforcement actions will include written information on how to appeal. Where the Council suspends or revokes a driver's licence the revocation or suspension may come into effect immediately regardless of the fact that the driver may have made an appeal against the decision to the Magistrates' Court.

19.6.3 A driver can also appeal against a refusal to renew his drivers licence, but if his previous licence has already expired he cannot continue to drive as he would no longer hold a current licence.

19.7 Prosecution

19.7.1 The decision to prosecute is a very significant one as it may impact on the licence holder's future employability. Prosecution will, in general, be restricted to those circumstances where the law is blatantly disregarded, legitimate requirements of the Council are not followed and / or the public is put at serious risk. Such circumstances are, however, in a minority. It is important that the criteria on which a decision to prosecute is made provide common standards which ensure a consistent approach.

19.7.2 The circumstances which are likely to warrant prosecution may be characterised by one or more of the following:-

- where there is a blatant disregard for the law, particularly where the economic advantages of breaking the law are substantial and the law-abiding are placed at a disadvantage to those who disregard it;
- when there appears to have been reckless disregard for the safety of passengers or other road users;
- where there have been repeated breaches of legal requirements;
- where a particular type of offence is prevalent;
- where a particular contravention has caused serious public alarm.

19.7.3 When circumstances have been identified which may warrant a prosecution, all relevant evidence and information must be considered, to enable a consistent, fair and objective decision to be made.

19.7.4 Before referring a matter to the Legal Section for possible prosecution, the Licensing Manager must be satisfied that there is relevant, admissible, substantial and reliable evidence that an offence has been committed by an identifiable person or company. There must be a realistic prospect of conviction; a bare prima facie case is not enough. With insufficient evidence to prosecute, the issue of a simple caution is not an alternative.

Appendix K – Enforcement Policy

19.7.5 In addition to being satisfied that there is sufficient evidence to provide realistic prospect of conviction, it must be established that it is in the public interest to prosecute. The Code for Crown Prosecutors, issued by the Crown Prosecution Service, provides guidance which will be considered, including relevant public interest criteria

19.7.6 When a decision is being taken on whether to prosecute, the factors to be considered may include:-

- the seriousness of the alleged offence;
- the risk or harm to the public;
- identifiable victims;
- failure to comply with a statutory notice served for a significant breach of legislation;
- disregard of safety for financial reward;
- the previous history of the party concerned;
- offences following a history of similar offences;
- failure to respond positively to past warnings;
- the credibility of any important witnesses and their willingness to cooperate;
- the willingness of the party to put right the loss or harm that has occurred,
- whether a prosecution would have a significant positive impact on maintaining community confidence;
- whether other action, such as issuing a simple caution in accordance with the Home Office Circular 016./2008 would be more appropriate or effective.

This list is not exhaustive, and regard will be had in particular to the matters set out in the Code for Crown Prosecutors.

19.8 Simple Cautions

19.8.1 A simple caution may be used as an alternative to a prosecution in certain circumstances.

19.8.2 The purposes of the simple caution are:-

- to deal quickly and simply with less serious offences where the offender has admitted the offence;
- to divert offenders where appropriate from appearing in the criminal Courts;
- to reduce the chances of re-offending

19.8.3 To safeguard the suspected offender's interests, the following conditions should be fulfilled before a caution is administered:-

- there must be evidence of the suspected offender's guilt sufficient to give a realistic prospect of conviction;
- the suspected offender must have made a clear and reliable admission of the offence;
- the suspected offender must understand the significance of a simple caution and give informed consent to being cautioned;
- A simple caution must be appropriate to the offence and the offender

Appendix K – Enforcement Policy

19.8.4 If there is insufficient evidence to consider taking a prosecution, then by implication, the criteria is not satisfied for the use of a simple caution. A simple caution should also not be used where the suspected offender does not make a clear and reliable admission of the offence. (It should be noted that there is no legal obligation for any person to accept the offer of a simple caution and no pressure should be applied to the person to accept a caution).

19.8.5 Where a person declines the offer of a simple caution, it will be necessary to consider taking alternative enforcement action. Whilst this will usually mean prosecution, this is not necessarily inevitable. For example, it may be considered that a written warning would be appropriate.

19.9 Transparency

19.9.1 Following the completion of an investigation into a complaint or any enforcement activity, the licence holder will be informed of the action intended to be taken.

19.9.2 Any written documentation issued or sent will:-

- contain all the information necessary to understand the offence and what needs to be done to rectify it. Where works are required, the period allowed for them to be completed will be indicated;
- indicate the legislation or conditions contravened and measures which will enable compliance with the legal requirements and point out, where appropriate, that other means of achieving the same effect may be chosen; and
- clearly indicate any recommendations of good practice under an appropriate heading, to show that they are not a legal requirement.

19.9.3 The clear distinction between legal requirements and matters which are recommended as good practice recommendations in all enforcement action, even if only giving verbal advice, is vitally important.

Appendix L – Grounds for Appeal

20 APPENDIX L

GROUNDINGS FOR APPEAL TO MAGISTRATES' COURT

20.1 An Appeal

20.1.1 An appeal may be made to the Magistrates Court against the following decisions:

Hackney Carriage

- Refusal to grant a vehicle or driver's licence
- Any conditions attached to a vehicle licence
- Suspension/ revocation or refusal to renew a vehicle or driver's licence

Private Hire

- Refusal to grant a vehicle, driver's or operator's licence
- Any conditions attached to a vehicle, driver's or operator's licence
- Suspension/ revocation or refusal to renew a vehicle, driver's or operator's licence

20.1.2 **The time within which any appeal as mentioned above may be brought is 21 days from the date on which notice of the Council's requirement, refusal or other decision was served upon the person desiring to appeal.**

Appendix M – Complaints Policy

21 APPENDIX M

Taxi and Private Hire Complaints Procedure

21.1 Complaints Procedure Policy

- 21.1.1 Both the Licensing Authority and the taxi and private hire trade embrace a policy which identifies drivers who do not maintain the high standard set by the majority of licensed drivers.
- 21.1.2 Upon receipt of a complaint, it will be recorded and arrangements will be made for the complainant to speak to a Licensing Officer.
- 21.1.3 This stage will determine the seriousness of the alleged complaint and whether the complainant wishes informal resolution or is prepared to support further action.
- 21.1.4 Should further action be the option, a written witness statement will be obtained from the complainant. This will form the basis of the interview with the alleged perpetrator.
- 21.1.5 The interview will be conducted under caution and will either be contemporaneously recorded in writing or electronically recorded.
- 21.1.6 Following this interview and any supporting evidence, a decision as to further action will be made in accordance with the Licensing and Enforcement Policy.
- 21.1.7 The complainant will then be advised of the result of that decision which will then be carried out.
- 21.1.8 At the conclusion of the investigation both the complainant and perpetrator will be advised in writing of the outcome.
- 21.1.9 The perpetrator's driver record held by the Council will be updated as to the circumstances and resolution of the complaint.
- 21.1.10 Any informal resolution will also be recorded on the driver's record.

Appendix N – Summary of Legislation

22 APPENDIX O

SUMMARY OF LEGISLATION

TOWN POLICE CLAUSES ACT 1847	
Section 46 Driver not to act without first obtaining a licence	No person shall act as a driver of any hackney carriage without first obtaining a licence
Section 48 Proprietors to retain licences of drivers and produce the same before justices' on complaint	Proprietors must retain licences of drivers while they remain in his employment. Where the proprietor of a hackney carriage is summoned before a justice or to produce the driver he shall also produce the licence of the driver if he is in his employment
Section 52 Penalty for neglect or refusing to exhibit the prescribed number of passengers	If the proprietor, or driver of any hackney carriage permits the same to be used, employed, stand or ply for hire without having the number of persons to be carried displayed in the in the prescribed manner
Section 53 Penalty on driver for refusing to drive	The driver of any hackney carriage standing at any stands for hackney carriages or in any street, without reasonable excuse shall not refuse or neglect to drive such carriage to any place within the prescribed distance
Section 54 Demanding more than the sum agreed	Proprietors or drivers of hackney carriages or any person on his behalf is not permitted to exact or demand more than the fare agreed
Section 55 Payment of more than the legal fare	No agreement whatsoever shall be made between the driver or with any person having or pretending to have the care of any such hackney carriage, for the payment of more than the fare allowed by any byelaw or Act
Section 56 Agreement to carry passengers a discretionary distance for a fixed sum	If the proprietor or driver of any hackney carriage, or any other person on his behalf, agrees to carry persons for a distance at the discretion of the proprietor or driver, and for a sum agreed upon, he shall not carry those persons for a lesser distance than would be allowed by the sum agreed according to the scale of fares in force
Section 57 Deposits made for hackney carriages required to wait	When a hackney carriage is hired and taken to any place, and the driver is required to wait by the hirer, the driver may demand his fare for driving to such place, and a fare for the waiting period
Section 59 Persons riding without the consent of the hirer	No proprietor or driver of any hackney carriage which is hired, shall not without the express consent of the person hiring the said hackney carriage permit any other person to be carried in such hackney carriage
Section 60 No unauthorised person to act as driver	No authorised driver of a hackney carriage shall allow any person, whether licensed or not, to act as the driver of any hackney carriage without the consent of the proprietor
Section 61 Drunkenness and furious driving	No driver or any other person having or pretending to have the care of any such hackney carriage shall do so whilst intoxicated, or drive in a wanton and furious manner, or by any other wilful misconduct injure or endanger any person in his life limb or property
Section 62 Carriages being left at places of public resort	A driver of any hackney carriage may not leave it in any street or any place or public resort or entertainment, whether it be hired or not, without someone proper to take care of it
Section 64 Drivers obstructing other drivers	Any driver of any hackney carriage shall not obstruct or hinder any driver of any carriage in taking up or setting down any person into or from that carriage, nor shall they, in a forcible manner prevent or endeavour the driver of any other hackney carriage from being hired

Appendix N – Summary of Legislation

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976	
Section 46 Vehicle, driver and operators licences	<p>No person being the proprietor of any vehicle not being a hackney carriage in respect of which a vehicle licence is in force, shall use or permit the same to be used in a controlled district as a private hire vehicle without having for such a vehicle a current licence under section 48 of this Act</p> <p>No person shall act in a controlled district as a driver of any private hire vehicle without having a current licence under section 51 of this Act</p> <p>No person being the proprietor of a private hire vehicle licensed under this part of this Act shall employ as the driver thereof for the purpose of any hiring any person who does not have a current licence under the said section 51</p> <p>No person in a controlled district shall operate any vehicle as a private hire vehicle without having obtained a current licence under section 55 of this Act</p> <p>No person licensed under the said section 55 shall in a controlled district operate any vehicle as a private hire vehicle – (i) if the vehicle does not have a current licence under section 48 of this Act (ii) if the driver does not have current licence under section 51 of this Act</p>
Section 49 Transfer of hackney carriage and private hire vehicles	The proprietor of a hackney carriage or private hire vehicle shall give written notice to the district council within fourteen (14) days of the transfer of the vehicle. Such notification shall specify the name and address of the person to whom the hackney carriage or private hire vehicle has been transferred
Section 50 Provisions as to proprietors	<p>(1) The proprietor of any hackney carriage or private hire vehicle licensed by a district council shall present such hackney carriage or private hire vehicle for inspection and testing by or on behalf of the council within such period and at such place within the area of the council as they may by notice reasonably require</p> <p>(2) The proprietor of any hackney carriage or private hire vehicle shall, within such period as the district council may by notice reasonably require, state in writing the address of every place where such hackney carriage or private hire vehicle is kept when not in use</p> <p>(3) The proprietor of a hackney carriage or private hire vehicle licensed by a district council shall report to them as soon as reasonably practicable, and in any case within 72 hours of the occurrence thereof any accident to such hackney carriage or private hire vehicle causing damage materially affecting the safety, performance or appearance of the hackney carriage or private hire vehicle or the comfort or convenience of persons carried therein</p> <p>(4) The proprietor of any hackney carriage or private hire vehicle licensed by a district council shall at the request of any authorised officer of the council produce for inspection the vehicle licence for such hackney carriage or private hire vehicle and the Certificate of Policy of Insurance or security required by the Road Traffic Acts in respect of such hackney carriage or private hire vehicle</p>
Section 53 Drivers' licences for hackney carriage and private hire vehicles	<p>The driver of any hackney carriage or of any private hire vehicle licensed by a district council shall at the request of any authorised officer of the council or of any constable produce for inspection his drivers' licence wither forthwith or</p> <p>(a) in the case of the request by an authorised officer at the principal offices of the council, before the expiration of the period of five days beginning with the day following that on which the request was made</p> <p>(b) in the case of a request by a constable, before the expiration of the period aforesaid at any police station which is within the area of the council and is nominated by the driver when the request is made</p>
Section 54 Wearing of drivers badges	A driver shall at all times when acting in accordance with a drivers licence granted to him wear such badge in such position and manner as to be plainly and distinctly visible

Appendix N – Summary of Legislation

<p>Section 56 Operators of private hire vehicles</p>	<p>(i) Every contract for the hire of a private hire vehicle licensed under this Act shall be deemed to be made with the operator who accepted the booking for that vehicle whether or not he himself provided the vehicle</p> <p>(ii) Every person to whom a licence in force under this Act shall keep a record in such form as the council may by condition attach to the grant of the licence, and enter details in the record before the commencement of each journey, particulars of every booking of a private hire vehicle invited or accepted by him whether by accepting the same from the hirer or at the request of another operator. The operator shall produce such record on request to any authorised officer of the council or constable for inspection.</p> <p>(iii) Any person who has a licence under this Act shall enter details in the record the particulars of any private hire vehicle operated by him and shall produce the same on request to any authorised officer of the council or constable for inspection</p> <p>(iv) A person to whom a licence has been granted under this Act shall produce the licence on request to any authorised officer of the council or constable for inspection</p>
<p>Section 57 power to require applicants to submit information</p>	<p>Any applicant for a licence under the Act of 1847 and this part of this Act shall submit to a district council such information as they may reasonably consider necessary to enable them to determine whether the licence should be granted and whether conditions should be attached to any licence</p>
<p>Section 58 Return of identity plate or disc on revocation or expiry of licence</p>	<p>(a) On the revocation or expiry of a vehicle licence in relation to a hackney carriage or private hire vehicle</p> <p>(b) The suspension of a licence under section 68 of this Act</p> <p>The proprietor of the hackney carriage or private hire vehicle shall, on request of the district council issuing the licence, return within 7 days to the council the plate or disc</p>
<p>Section 59 Qualifications for drivers of hackney carriages</p>	<p>A person must be authorised to drive a motor vehicle under Part III of the Road Traffic Acts for a minimum of twelve months prior to the application for a driver licence</p>
<p>Section 64 Fares for long journeys</p>	<p>A driver of a hackney carriage must not charge a fare for a journey ending outside the licensing district, greater than that agreed before the hiring was effected or that indicated on the taxi meter or fixed by the table of fares in force within the licensing district</p>
<p>Section 67 Hackney carriages used for private hire</p>	<p>N9o hackney carriage shall be used in the district under a contract or proposed contract for private hire except at a rate of fares or charges not greater than that fixed by the table of fares, and when any such hackney carriage is so used the fare or charge shall be calculated from the point in the district at which the hirer commences his journey</p>
<p>Section 69 Prolongation of journeys</p>	<p>No person being the driver of a hackney carriage or private hire vehicle licensed by a district council shall without reasonable excuse unnecessarily prolong, in distance or in time, the journey for which the hackney carriage or private hire vehicle has been hired</p>
<p>Section 71 taximeters</p>	<p>Any person who (a) tampers with any seal on any taximeter without lawful excuse; or (b) alters any taximeter with intent to mislead; or (c) knowingly causes or permits a vehicle of which he is the proprietor to be used in contravention of this section shall be guilty of an offence</p>
<p>Section 73 Obstruction of authorised officers</p>	<p>(1) Any person who (a) wilfully obstructs an authorised officer or constable; or (b) without reasonable excuse fails to comply with any requirements properly made to him by such officer or constable; or (c) without reasonable cause fails to give such officer or constable so acting any other assistance or information which he may reasonably require of such person for the purpose of the performance of his functions shall be guilty of an offence</p> <p>(2) If any person in giving any information to (1) makes any statement he knows to be false he shall be guilty of an offence</p>

Appendix O – Delegations

1.1.1 In accordance with paragraph 2.8 of Part 3 of the Constitution of Tonbridge and Malling Borough Council the Licensing Manager is authorised to exercise the following delegated powers :

CHS 200.06	Town Police Clauses Act 1847 (hackney carriages and drivers)	C
CHS 200.07	Local Government (Miscellaneous Provisions) Act 1976 (private hire vehicles, drivers and operators)	C
CHS 201	To permit departures from the standard licence conditions in respect of specific hackney carriages or private hire vehicles in circumstances where he considers it appropriate so to do.	C
CHS 202	To refer all applicants for hackney carriage and private hire driver licences to the Criminal Records Agency and the Driver and Vehicle Licensing Agency for vetting	C
CHS 203	To suspend: (i) vehicle licences under section 60; (ii) drivers' licences under section 61; (iii) operators' licences under section 62, of the Local Government (Miscellaneous Provisions) Act 1976, including where the suspension is to have immediate effect.	C
CHS 204	To revoke: (i) vehicle licences under section 60; (ii) drivers' licences under section 61; (iii) operators' licences under section 62, of the Local Government (Miscellaneous Provisions) Act 1976, provided that no licence is to be revoked unless the applicant has not indicated a desire for his case to be determined by the Licensing and Appeals Panel within 21 days of being invited so to do	C
CHS 205	To prosecute in the Magistrates' Court for offences under section 167 of the Criminal Justice and Public Order Act 1994 (taxi touting)	C
CHS 206	To institute proceedings for non-compliance with conditions of licences, permits or registration procedures or for non-possession of licences or permits under relevant statutory provisions	C
CHS 207	To commence proceedings in the Magistrates' Court against persons responsible for: (a) failure to register or obtain or renew a licence or permit; (b) failure to comply with any condition imposed on any licence, registration or permit	C