



**TONBRIDGE and MALLING BOROUGH COUNCIL
DRAFT HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING
POLICY
2010 – 2013**

SUMMARY, DEFINITIONS & INTERPRETATION

1. For ease of reference the main proposals contained in this draft document are to:
 - i. Consider all current policies in the light of the Department of Transport Best Practice Guidance and, so far as is possible and consistent with that document make appropriate and necessary adjustments
 - ii. Detail the specification of licensed vehicles
 - iii. Detail the application procedures for drivers,
 - iv. Implement new requirements for dealing with prospective drivers from outside the United Kingdom and for the checking of criminal records
 - v. Provide information regarding the conduct of licensed drivers for the purpose of maintaining minimum standards
 - vi. Introduce a new 'penalty points' system to deal with breaches of licence conditions etc
 - vii. Detail the controls and conditions related to stretch limousines and other speciality vehicles under licensing control
 - viii. Introduce new formal written policies in respect of:
 - o The relevance of criminal convictions
 - o Disciplinary Hearings
 - o Enforcement
 - o Define the advertising criteria relating to hackney carriages and private hire vehicles
2. Throughout this document:
 - o 'The Council' or 'The Authority' means Tonbridge and Malling Borough Council
 - o 'Vehicle' or 'Licensed Vehicle' means both a Hackney Carriage and Private Hire Vehicle
 - o 'Hackney Carriage' means a vehicle licensed under the Town Police Clauses Act 1847 to ply for hire throughout the district controlled by the Council.
 - o '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.
 - o '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
 - o 'The DoT' means the Department for Transport, including previous names under which that department has been known
 - o DVLA means the Driver and Vehicle Licensing Agency

TMBC HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING POLICY 2010 – 2013

- 'The DoT Guidance' means The Department for Transport – Hackney Carriage and Private Hire Vehicle Licensing: Best Practice Guidance published in February 2010.
- 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
- The term 'Proprietor' means the owner of the licensed vehicle – this may not necessarily be the driver of the vehicle

CONTENTS

Section	Page Number
1 Introduction	6
2 Vehicles	8
3 Drivers	19
4 Private Hire Operators	24
5 Fares and Fees	27
6 Disciplinary and Enforcement Measures	28
7 Offences	31
8 Taxi Ranks	31
9 Amendments to the Policy	32
10 Rights of Appeal	32

Appendix

A	Vehicle specification and Schedule of Conditions	P33
B	Conditions for Stretch Limousine Vehicles	P43
C	Code of Practice for CCTV Cameras	P46
D	Application Procedures	P51
E	Relevance of Convictions	P56
F	Details of Residency outside the United Kingdom	P65
G	Driver Knowledge Tests	P67
H	Private Hire Drivers Licence Conditions	P69
I	Penalty Points System	P73
J	Drivers Code of Good Conduct	P79
K	Private Hire Operators Conditions	P82
L	Taxi and Private Hire Enforcement Policy	P85
M	Taxi and Private Hire Complaints Procedure	P90
N	Right of Appeal	P90
O	Summary of Legislation	P91

1. Introduction

1.1. Powers and Duties

1.1.1 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.

1.1.2 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 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;
- Road Traffic Act;

1.1.3 Authority to approve licence applications set out in this document is delegated to the following staff:

- Licensing Manager
- Licensing Officer

1.2 Background to Policy

1.2.1 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.

1.2.2 Some of these policies and procedures have, however, now become rather historic and do not adequately assist the trade or the public, or reflect the increased requirements of society today.

1.2.3 Best Practice Guidance has now been issued by the Department of Transport. 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”. There is recognition, within the document, that it is for individual licensing authorities to reach their own decision both on overall policies and on individual licensing matters. The Best Practice Guidance can be found at www.dft.gov.uk/pgr/regional/taxis/bestpracticeguidance.pdf

- 1.2.4 In the light of this and in order for Tonbridge and Malling Borough Council to maintain a modern, forward thinking licensing function, a full review of all procedures has been undertaken. 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.
- 1.2.5 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.
- 1.2.6 The Council sees the licensing process as an integral part to its approach to achieving its key priorities which are:
- i. to promote and support the sustainable regeneration and economic development of Tonbridge town centre;
 - ii. to manage the Council's financial resources and performance to meet the challenges of the recession and its impact on public finances;
 - iii. to secure a continuing supply of affordable housing across all tenures and work to prevent homelessness;
 - iv. to involve, safeguard and meet the needs of children and young people;
 - v. to achieve a cleaner, smarter and better maintained street scene and open space environment;
 - vi. to work with partners to:
 - Reduce crime, anti social behaviour and the fear of crime
 - Promote, encourage and provide opportunities for healthy living
 - Make a positive local contribution to tackling the causes and effects of climate change
 - Achieve further shared priorities to improve residents' quality of life in Tonbridge and Malling.

1.3 Objectives

- 1.3.1 Hackney carriages and private hire vehicles have a specific role to play in an integrated transport system. They are able to provide services in situations where other public transport is either not available (for example in rural areas, or outside "normal" hours of operation such as in the evenings or on Sundays), or for those with mobility difficulties.
- 1.3.2 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.
- 1.3.3 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.
- 1.3.4 In exercising its discretion in carrying out its regulatory functions, the Licensing Authority shall have regard to this policy document and the objectives set out above.
- 1.3.5 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. 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.
- 1.3.6 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. 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.

1.4 Implementation

- 1.4.1 It is anticipated that, subject to a consultation process, this policy will take effect following the consultation period. This policy will be formally reviewed at least every three years. It will also be informally re-evaluated from time to time in the context of social and economic changes, the continued development of the Borough and any relevant representations arising from this.
- 1.4.2 Upon implementation of this policy, the Authority expects licence-holders to comply with its terms immediately.

2. Vehicles

2.1. Limitation of Numbers

- 2.1.1 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.

- 2.1.2 Many local licensing authorities do not impose any quantity restrictions on hackney vehicles and the DoT regards this as best practice. Where restrictions are imposed, licensing authorities are urged to regularly reconsider the matter, taking into account whether the restrictions should continue at all. It is suggested that the matter should be approached in terms of the interests of those who use the services of such vehicles. The overriding principles are the benefit to be achieved for them by the continuation of controls and how they might benefit if the controls were removed. Evidence should be sought as to whether removal of the controls would result in a clear and unambiguous deterioration in the amount or quality of service provision.
- 2.1.3 Where quantity restrictions are imposed, vehicle licence plates command a premium, often of thousands of pounds. This tends to suggest that there are people who want to enter the market and provide a service to the public, but who are being prevented from doing so by the quantity restrictions.
- 2.1.4 If the local authority were to take the view that a quantity restriction can be justified in principle, the Guidance advises that the level at which the limit should be set is addressed by means of a survey.
- 2.1.5 The Council does not set a limit on the number of hackney carriages which it licences, since no evidence has been provided of any difficulty arising from this stance.
- 2.1.6 No powers exist for licensing authorities to limit the number of private hire vehicles which they licence.
- 2.1.7 The policy takes into account the repeal of the private hire contract exemption and the possibility of an increase in the number of private hire vehicles and drivers.

2.2. Vehicle Specifications

- 2.2.1 Licensing Authorities have a wide range of discretion over the types of vehicle that they can licence as hackney carriages or private hire vehicles.
- 2.2.2 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.
- 2.2.3 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.

APPENDIX A sets out the minimum standards of vehicle specification that apply in respect of all licensed vehicle applications in this Authority.

2.3. Accessibility

- 2.3.1 This section of the policy also takes into account the 2007 report published by the European Conference of Ministers of Transport and the International Road Transport Union which recognised that it is impossible to provide for 100% of wheelchair users without reducing the operational viability of the vehicle for the taxi operator and other passengers. There will be a small proportion of people who, because of the size of their wheelchair or the nature of their disability are unable to access taxis or indeed other forms of mainstream public transport. They will continue to need specialist door-to-door services.
- 2.3.2 Tonbridge and Malling Borough Council is committed to social inclusion and ensuring a wide range of opportunities are available to disabled residents to enjoy a high quality of life. Without the ability to travel, people with disabilities 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. For this reason, the Council considers it important that people with disabilities have access to all forms of public transportation. Accessibility is an important consideration in respect of vehicles licensed as hackney carriages. This Authority will therefore keep this section of the policy constantly under review.
- 2.3.3 The Council is aware of the Government's proposals to implement the provisions of the Disability Discrimination Act 1995 in relation to hackney carriages (it does not apply to private hire vehicles). The Government announced its proposals for taxis in 2003 and since that time has been consulting and gathering further information. The Government is now considering how best to bring forward requirements for accessible taxis, and this includes evaluation of all options, both regulatory and non-regulatory approaches are being considered.
- 2.3.4 The ECMT-IRU recommendations for taxi vehicle accessibility are based on two design levels:
- Type One: Wheelchair Accessible Taxis: accessible vehicles capable of carrying the majority, but not all, passengers who travel in their wheelchair as well as people with other disabilities;
 - Type Two: Standard Accessible Taxis: vehicles with features designed to make use by disabled people easier, but which would only be able to carry a wheelchair user who can transfer to a taxi seat.

Until such time as Regulations are introduced, the Council will monitor the percentage of wheelchair accessible vehicles in the Borough and will encourage proprietors and operators to introduce a higher proportion of accessible vehicles. However the question of whether or not to require all hackney carriages to become wheelchair accessible will not be addressed until the next review of this policy.

2.4. Environmental Considerations

- 2.4.1 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.
- 2.4.2 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.
- 2.4.3 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.
- 2.4.4 In view of the above details unless more urgent measures are introduced by central government in the meantime, this Council will monitor any research published and Government guidelines with a view to specifying vehicle emissions standards and promoting cleaner fuels in respect of licensed taxis during the next review of this policy.

2.5. Vehicle age and other criteria

- 2.5.1 It is perfectly possible for an older vehicle to be in good condition. Best Practice Guidance suggests that the setting of an age limit beyond which a local authority will not licence vehicles may be arbitrary and inappropriate. This Authority does not set a vehicle age limit.
- 2.5.2 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.
- 2.5.3 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.

2.6 Vehicle Testing, Inspections, Insurance and road tax

- 2.6.1 At present all vehicles are required to be MoT and compliance tested prior to a licence plate being issued. Thereafter the process is repeated every six months. The test is currently conducted at one of two authorised testing stations located within the Borough. The current cost of the MoT and compliance test, payable by the operator directly to the garage, is £85. This

figure includes the maximum amount of £54.85 that a testing station is currently permitted to charge for a MoT test.

- 2.6.2 This is a departure from the Guidance which suggests that an annual test for licensed vehicles of whatever age seems appropriate in most cases.
- 2.6.3 The rationale of the requirement to have all vehicles tested twice a year is that of public safety. The annual mileage of taxis and private hire vehicles far exceeds that of normal domestic motoring and as such a more stringent testing system than that required by law should be adopted.
- 2.6.4 The compliance element of the test covers such items which would not normally be included in the MoT test. These include the general condition of the vehicle including the interior, the provision of a first aid kit and fire extinguisher and compliance with the Council's vehicle licensing policy in respect of signage. In the case of taxis, the testing of the taximeter is also conducted over a measured mile to ensure accuracy.
- 2.6.5 Normally 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.
- 2.6.6 Despite giving good notice of an impending test there is a tendency for some drivers to ignore the notice until the licence plate has expired. It is recommended that only in exceptional circumstances will an expired licence plate be renewed. If exceptional circumstances do not prevail the application will be treated as a new application and the appropriate fee applied.
- 2.6.7 In the past there has been some support for the twice yearly test and compliance procedure although the cost (£85) is an area of contention as is the waiting time for such a test at peak times. The cost of the test/compliance has in the past been set by the Council.
- 2.6.8 It is recommended that the number of approved testing stations be increased from the current two to a minimum of four, all strategically positioned within the Borough and that the cost of the MoT test and compliance be determined by the provider.
- 2.6.9 Selection of the garages would be by the Council. It is believed that this process would open up the market and encourage open competition and reduce the cost to the taxi and private hire trade.
- 2.6.10 Vehicles will also be subjected to periodic, random inspections by authorised officers of the council or other agencies (e.g. VOSA) to ensure the vehicle and/or its taximeter is fit for purpose.
- 2.6.11 Where an authorised officer of the Council has reasonable grounds to suspect that the condition of a vehicle poses a danger to either passengers or other members of the public, he/she may serve on the driver/proprietor a vehicle defect notice. In such cases the vehicle licence shall be immediately suspended until such time as the defect(s) have been remedied. The suspension shall not be lifted until it is proved to the authorised officer that the vehicle defect has been corrected.
- 2.6.12 Where an authorised officer is satisfied that a vehicle fails in any respect to meet any specification or condition of licence or the relevant Construction and

- Use Regulations required by law, they may suspend a vehicle licence for any specified period.
- 2.6.13 Failure to comply with a vehicle defect notice issued by the Council within the statutory period for compliance will result in the revocation of the vehicle licence as required by law.
- 2.6.14 Where an authorised officer of the Council has reasonable grounds to suspect that the vehicle has defects of a minor or cosmetic nature they may serve the driver/proprietor with a vehicle defect notice and may specify a period of time to allow for these defects to be remedied to their satisfaction.
- 2.6.15 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.
- 2.6.16 It is vitally important that the vehicles are covered at all times by the appropriate insurance and that certification is provided to the Council to evidence this. Failure to present annual insurance documents within three weeks of its due date will result in suspension of the licence. Weekly/monthly insurance policies must present a new cover note/certificate on expiry of the cover note/certificate. Failure to produce the new insurance documents within 7 days will result in suspension of the vehicle licence. Failure to produce insurance documents within six weeks will result in revocation of the licence
- 2.6.17 A licensed vehicle is always a licensed vehicle and as such is always required to have appropriate insurance cover. If circumstance leads to a vehicle being uninsured, the licence must be suspended. The length of time that the licence may be suspended will be dependent on the merit of each case but must be agreed with a Licensing Officer prior to the vehicle ceasing to be insured.
- 2.6.18 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.

2.7 Signage

- 2.7.1 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. Hackney plates are predominantly white and red and private hire yellow and blue. 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. 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 should be positioned near the front nearside corner of the windscreen. 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”. Similar door signage for private hire vehicles is optional.

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. A written notice of exemption will also be given to the operator.

Before any plate exemption notice is issued, the operator must satisfy the licensing officer that such an exemption would be integral to his business.

- 2.7.2 All hackney carriage vehicles, except those with built-in roof signs should carry illuminated roof-mounted signs indicating that they are a hackney carriage (the use of the word “Taxi” is acceptable to fulfil this requirement).
- 2.7.3 The sign shall be so arranged that it is illuminated during the hours of darkness when the vehicle is available for hire but that when the machinery of the taximeter is in action the illumination of the sign shall be extinguished.
- 2.7.4 Similarly, and in order to differentiate between the two types of licensed vehicle, private hire vehicles are not permitted to carry roof-mounted signs of any description.

2.8 Advertising

No external third party advertising will be permitted on any hackney carriage or private hire vehicle.

2.9 Security and Closed Circuit Television (CCTV)

- 2.9.1 The hackney carriage and private hire trade provide a valuable public service, especially late at night when other forms of public transport are no longer available. Security for drivers and passengers is paramount. Across the UK there is evidence that attacks and incidents involving taxi drivers are becoming more common. The main areas of concern are:
 - o threats and assaults on drivers;
 - o allegations of drivers assaulting passengers;
 - o customers leaving vehicles without paying;
 - o allegations of theft associated with licensed vehicles.
- 2.9.2 CCTV cameras can be a valuable deterrent for such incidents and, as well as protecting the driver from unjustified complaints, can protect the travelling public similarly by:
 - o helping to prevent crime;
 - o identifying the perpetrators of crime;
 - o reducing the fear of crime.

- 2.9.3 Whilst it is not proposed to make this a condition of licensing there will be no objection to the installation of a CCTV camera that meets council approved criteria – see APPENDIX C. The protection that will be offered to drivers and passengers by the installation and operation of approved CCTV systems in hackney carriages and private hire vehicles must be balanced against the potential infringement of civil liberties and Human Rights by recording their activities whilst in the vehicle, which is in effect a private environment once hired. The conflicting rights can be balanced by implementing necessary and sufficient safeguards. It is therefore required that drivers who install a CCTV camera sign a Code of Practice – see APPENDIX C.
- 2.9.4 In addition to CCTV, drivers may wish to install a clear plastic protective screen around the driving seat. Whilst it is not proposed to make this a condition of licensing there will be no objection to the installation of shields providing that they satisfy the following:
- make, type and design is approved by Authorised Officers of the Council;
 - not be changed in any way from its original design and be free of damage;
 - remain clear and translucent; be free of scratches, clouding or stickers which would impede the drivers or passengers visibility;
 - does not impede entry and egress or present a trip hazard to passengers using the vehicle;
 - installation and maintenance must be in accordance with manufacturer's specifications and recommendations.

2.10 Stretch Limousines

- 2.10.1 Private Hire Vehicles are licensed under the Local Government (Miscellaneous Provisions) Act 1976 which in general terms allows Councils to licence vehicles which are suitable to be used for private hire and which have not more than 8 passenger seats. Historically the Council has developed its own set of Private Hire Vehicle Licence conditions, which provide a framework for determining vehicle suitability but these conditions did not cater for the licensing of stretch limousines.
- 2.10.2 In recent years there has been rapid growth in demand for the hire of stretch limousines which has been largely unlicensed and unregulated in terms of operators, drivers or vehicles being licensed. Some purported to operate under Section 75(1b) of the Local Government (Miscellaneous Provisions) Act 1976, known as 'the contract exemption,' under an operator who arranged the hiring, the driver and the vehicle were exempt from the requirement to be licensed if the vehicle was used for contracts lasting not less than 7 days. However, this was repealed on 28 January 2008.
- 2.10.3 This document details the framework for the licensing of stretch limousines following the Department of Transport Guidance.

TMBC HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING POLICY 2010 – 2013

- 2.10.4 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;
 - that is not a decommissioned military or emergency service vehicle.
- A complete copy of Private Hire (Stretch Limousine) Vehicle - Licence Conditions is shown at APPENDIX B.
- 2.10.5 A stretch limousine shall be licensed as a private hire vehicle by Tonbridge and Malling Borough Council in accordance with S48 of the Local Government (Miscellaneous Provisions) Act 1976.
- 2.10.6 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.
- 2.10.7 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.
- 2.10.8 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 APPENDICES A & D.
- 2.10.9 Stretch limousines which are not offered for private hire or which are used for funeral and weddings only, do not require a licence.
- 2.10.10 Exceptions to the foregoing limits may be made in respect of vehicles which, in the Council's opinion, have a special character or otherwise at the Council's discretion.

2.11 Contract Vehicles

Previously 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.

2.12 Funeral Vehicles

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.

2.13 Wedding Vehicles

A vehicle does not need to be licensed while it is being used in connection with a wedding. Written certification from the Council of the relevant exemption claimed is not currently required and it is not proposed to change this arrangement.

2.14 Courtesy Cars

2.14.1 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.

2.14.2 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.

2.15 Ambulances and Other Patient Transport

2.15.1 Ambulances which used to fall under the "contract exemption" are now required to be licensed as a "Private Hire" vehicle unless they fall under the categories in para 2.16.2 where they will be granted an exemption from the licensing regime.

2.15.2 Other patient transport services exempt from private hire licensing are those provided by either:

- i. Primary Care Trusts;
- ii. Voluntary services that are registered with the British Ambulance Association.

2.15.3 All other ambulance or patient transport services that are not registered with the British Ambulance Association may be required to conform to private hire

licensing requirements. The Council strongly recommends that anyone wishing to provide this type of service contacts the licensing authority for each case to be considered on its merits.

2.16 Voluntary Sector Transport

- 2.16.1 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.
- 2.16.2 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.

2.17 Novelty (Speciality) Vehicles

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.

2.18 Motorbikes

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.

2.19 Livery

Some licensing authorities require taxis to conform to particular requirements in terms of livery and markings, in order that they may be easily identified.

Such an imposition is not considered appropriate in this council's area. It is felt that the visual distinction between hackney carriages and private hire vehicles can be achieved by the appropriate signage as detailed at 2.7.

2.20 Application Procedure

The application procedure for a hackney carriage or private hire vehicle licence is not prescribed. Therefore existing practice will be largely retained. The Council requires that application must be made on a specified application form in accordance with application procedures set out in APPENDIX D.

2.21 Consideration of Applications

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.

2.22 Grant and Renewal of Licences

- 2.22.1 The Guidance makes no recommendations in respect of the duration of hackney carriage or private hire vehicle licences, therefore hackney carriage and private hire vehicle licences will continue to be licensed 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.
- 2.22.2 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. From the date of receipt of a satisfactory and complete vehicle licence application a minimum of one week is required before the appropriate licence can be issued.
- 2.22.3 Officers may only accept complete applications comprising all the necessary paperwork. If an application is received late the applicant's vehicle may be unlicensed for a period of time during which they will be unable to use it as a licensed vehicle.
- 2.22.4 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 28 days prior to the proposed operational date for constructive comment. They will also be published together with other Council licensing fees on the Councils website under the licensing link.

3 Drivers

3.1 Licences

- 3.1.1 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.
- 3.1.2 The licensing authority will issue a licence to an applicant provided the applicant has held an eligible full driving licence for at least 12 months and is a 'fit and proper person'. All licensed drivers with a non UK licence will be required to transfer their licence to a DVLA UK licence prior to application for a licence. In assessing whether an applicant is a 'fit and proper person' to hold a licence the licensing authority will consider each case on its merits.
- 3.1.3 The Authority will consider amongst other things; the applicant's relevant skills, knowledge, experience, qualifications, medical fitness, criminal records, driving history via a DVLA check and any previous licensing history as a hackney / private hire licence holder.
- 3.1.4 The convictions which the Council consider to be relevant offences when considering an application for either the grant or renewal of a licence are shown in APPENDIX E. Whilst each application will be dealt with on its own merit, APPENDIX E outlines generally the minimum period of time needed free of further conviction before an application will be considered.
- 3.1.5 Any foreign national will be required to give details of any residency outside the UK and sign both a declaration that they are permitted to work in the UK and a consent form to give the Council the right to confirm the details with the local immigration office. This is detailed on APPENDIX F. Applicants must

also provide adequate documentation to evidence that they are permitted to work in the UK.

3.2 Age and Experience

- 3.2.1 A licence to drive a hackney carriage or private hire vehicle will not be granted to a person who has not held a full UK DVLA driving licence, issued in accordance with the Road Traffic Act 1972 (as amended) for a period of at least 12 months immediately prior to the licence application, or a foreign licence that is eligible for the UK for a 12 month period from the date of issue by the relevant licensing authority.
- 3.2.2 An applicant who meets the licensing requirements by virtue of an acceptable non-UK driving licence that has been held for at least 12 months must obtain a full UK DVLA driving licence before a licence application will be granted.
- 3.2.3 This policy requirement of 3.3.2 is to ensure appropriate regulation of any penalty points by the courts in relation to road traffic offences. Newly licensed drivers will be carefully monitored if 6 or more penalty points are in place and for the type of offence. The Council consider this an integral part of the 'fit and proper person' test.
- 3.2.4 An applicant will also be asked to complete a form authorising the Council to apply to DVLA for a driver licence history prior to a licence being issued and thereafter upon renewal.
- 3.2.5 No upper age limit is proposed provided that a driver can demonstrate that he is still medically fit to hold such a licence. In this respect however, if a driver wishes to continue to be licensed once he reaches 65 years of age the licensing authority shall require that he obtains a medical certificate at yearly intervals or a shorter period if directed by the examining medical advisor.

3.3 Driver Knowledge Tests

- 3.3.1 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. The procedures in relation to the above are set out in APPENDIX G.

3.4 Medical Examination

- 3.4.1 The DoT recognises that it is clearly good practice for medical checks as a condition for the initial grant of a licence. Thereafter a medical examination will be required upon reaching the ages of 50, 55 and 60 and annually after the age of 65.
- 3.4.2 Adopting 'Group 2' medical standards as applied by DVLA to the licensing of lorry and bus drivers and applying C1 standards to hackney carriage and private hire drivers with insulin treated diabetes is considered to be best practice.
- 3.4.3 The medical examination will be carried out at a place specified by the Council (currently PHC Occupational Health) A request form for a medical

examination will be supplied by the Council. This report must be submitted at the time of applying for a driver's licence. Payment of the medical fee will be made by the Council, it being included in the original application fee.

- 3.4.4 Licence holders must advise the Council of any deterioration in their health that may affect their driving capabilities. Where there is any doubt as to the medical fitness of either an applicant or an existing driver, the Council may require the applicant or existing driver at the driver or applicant's expense, to undergo further medical examination by a doctor appointed by the Council.

3.5 Criminal Records Bureau (CRB) Disclosures and ISA Registration

- 3.5.1 A criminal record check on a driver is seen as an essential safety measure in assessing whether or not an applicant is suitable to hold a licence. The DoT considers that such checks should be at the level of Enhanced Disclosure through the Criminal Records Bureau, as these disclosures include details of spent convictions and police cautions.
- 3.5.2 The Rehabilitation of Offenders Act 1974 sets out the period after which a conviction is regarded as 'spent' and which would not normally necessitate disclosure of that conviction. However, in 2002 the Act was amended so as to exclude hackney carriage and private hire drivers from the effects of the 1974 Act. Applicants for licences are therefore required to disclose all convictions and police cautions, including those that would have previously been regarded as 'spent' under the 1974 Act.
- 3.5.3 Before an application for a driver's licence will be considered the applicant must provide a current (less than 3 months old) Enhanced CRB Disclosure Certificate. The applicant will be responsible for payment of the appropriate fee.
- 3.5.4 A CRB 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.
- 3.5.5 The licence or renewal is conditional upon there being no adverse information revealed on the CRB 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 CRB 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.
- 3.5.6 The Council may request another disclosure at any time if a further check is considered necessary.
- 3.5.7 The Council is bound by rules of confidentiality and will not divulge information obtained to any third parties. The applicant for a CRB 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.

3.5.8 The Council recognises that there are occasions when requiring a CRB Certificate from an applicant will not achieve its original aim, for example, where the CRB are unlikely to have any information recorded against them due to the short period of time that they have resided in this country. The Council therefore requires that all overseas applicants who have resided in this country for less than five years 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.

3.5.9 Independent Safeguarding Authority (ISA)

The ISA is a non departmental body sponsored by the Home Office. The role of this new body is to help prevent unsuitable people from working with children and vulnerable adults and is seen by this Council as a further safety check to ensure that a driver is a fit and proper person. Licensed drivers regularly carry schoolchildren and may have contracts with care homes and vulnerable people. In this light it is proposed that all new drivers be required to register with the ISA and that existing drivers be required to register as and when their licences are due for renewal. Unlike a CRB check, an ISA registration, once undertaken, will not need to be renewed. The Council will check to ensure that every driver is ISA registered before their licence is issued.

3.6 Relevance of Convictions and Cautions

3.6.1 The DoT's Guidance recommends that in considering an individual's criminal record authorities be encouraged to consider each case on its merits, but to take a particularly cautious view of any offences involving violence, dishonesty and sexual offences. Authorities are recommended to have a clear policy for the consideration of criminal records. For example, the number of years they will require to have elapsed since the commission of particular kinds of offences before they will grant a licence. Such a policy should encompass applicants from elsewhere in the EU and other overseas countries by, for example, requiring a certificate of good conduct authenticated by the relevant embassy. Any information provided by an individual will only be used for purposes connected with his application. Information will only be further used or transferred to other organisations and individuals as the law permits.

3.6.2 A guide to the relevance of previous convictions, cautions and fixed penalty notices is in APPENDIX E.

3.6.3 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.

3.6.4 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.

- 3.6.5 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.
- 3.6.6 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.
- 3.6.7 In general terms the more recent, serious and relevant to public safety the offence is the less likely that an application will be granted.
- 3.6.8 In particular, applications will generally be rejected where the applicant's record includes one or more of the following:
- any term of imprisonment or custody for violent behaviour (dependent on class of the offence);
 - any conviction for a violent or sexual offence, or dishonesty, which is of a serious nature;
 - any serious motoring offence, such as dangerous driving, driving whilst disqualified, or drink driving;

3.7 Grant and Renewal of Licences

- 3.7.1 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.
- 3.7.2 The application procedure is set out in APPENDIX D.
- 3.7.3 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.
- 3.7.4 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.
- 3.7.5 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.

3.8 Conditions of Licence

- 3.8.1 The Licensing Authority is not empowered to attach conditions to a hackney carriage driver, other than through Byelaws.
- 3.8.2 The Licensing Authority is empowered to attach such conditions to a private hire driver's licence as are considered necessary.
- 3.8.3 It is considered that the conditions set out in APPENDIX H(Private Hire driver conditions) are reasonable, necessary and proportionate for all licensed drivers but accepted that some may not be legally imposed in respect of hackney carriage drivers.
- 3.8.4 In accordance with the above, the penalty point system detailed in APPENDIX I 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.

3.9 Code of Good Conduct

- 3.9.1. The Licensing Authority considers that to assist both drivers and the public, it would be useful to set down the standards which must be adopted in maintaining a safe, professional and efficient approach to the transport of members of the public. It is considered that drivers must be aware of the law and minimum standards of behaviour, should adopt safe and non-aggressive driving techniques, and set a good example to other road users. The standards expected of licensed drivers are set out in the Code of Good Conduct, included in this policy document at APPENDIX J which it is proposed will be adopted. The Code should be read in conjunction with the other statutory and policy requirements set out in this document.
- 3.9.2 Failure to comply with any aspect of the Code of Good Conduct will not in itself 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.
- 3.9.3 Anything that serves to enhance the professional image of the hackney carriage and private hire trade and promotes the concept that drivers of licensed vehicles are vocational drivers is to be welcomed.
- 3.9.4 It is considered that in order to raise the profile of the licensed trade, drivers should operate at all times in a professional manner and dress so as to present a professional image to the public.

4 Operators

4.1 Private Hire

- 4.1.1 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.
- 4.1.2 The primary objective in licensing private hire operators is the safety of the public, both in the vehicles and at the operator's premises.
- 4.1.3 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.

- 4.1.4 A private hire operator must ensure that every private hire vehicle is driven by a person who holds a private hire driver's licence.
- 4.1.5 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.
- 4.1.6 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.

4.2 Hackney Carriage

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.

4.3 Criminal Record Checks

- 4.3.1 Private hire operators, that are not licensed drivers, cannot be required to produce an enhanced CRB disclosure. A Basic Disclosure from the CRB, or a certificate of good conduct from the relevant embassy for overseas applicants, is, however, considered appropriate in promoting the objective of public safety.
- 4.3.2 Before an application for a private hire operator's licence will be considered the applicant must provide a current (less than 3 months old) basic CRB Disclosure of Criminal Convictions, or a Certificate of Good Conduct from the relevant embassy in the case of an overseas applicant.
- 4.3.3 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.

4.4 Conditions

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 K are those considered to be reasonably necessary.

4.5 Record Keeping

- 4.5.1 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 police checks to be made if any mishap should befall a passenger and assist with the recovery of lost property to the rightful owner.
- 4.5.2 Operators must keep records in respect of all bookings, vehicles and drivers for a period of one year.
- 4.5.3 Such records are to be made available to any authorised officer of the Council or a police officer upon request.

4.6 Insurance

- 4.6.1 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.
- 4.6.2 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.
- 4.6.3 The conditions applicable to Private Hire Operator's Licences as detailed in APPENDIX K require that the operator produces an appropriate certificate of motor insurance which covers every private hire vehicle they operate.

4.7 Licence Duration

- 4.7.1 The DoT 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.
- 4.7.2 However, it is considered that five years is a considerable period of time in the context of the life of this type of business. Tonbridge and Malling Borough Council will therefore continue its practice to issue a successful applicant with three year Operator's licence. The issue of an Operator's licence for a shorter period will be considered if, for example, the applicant intends to retire before the expiration of a three year licence.
- 4.7.3 Holders of existing Private Hire Operator's Licences will be reminded, in the month preceding their expiry, when their licences are due to be renewed.

4.8 Address from which an Operator may operate

Upon grant of an operator's licence the Council will specify the address from which the operator may operate ensuring the appropriate permissions are in place for trading. 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.

5 Fares

5.1 Hackney Carriage

- 5.1.1 Hackney Carriage Fares, set by the Council, are a maximum and can be negotiated downwards by the hirer. Tonbridge and Malling 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 at a period not exceeding 24 months.
- 5.1.2 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.
- 5.1.3 Fares can be negotiated prior to the commencement of the journey in both private hire vehicles and hackney carriages.
- 5.1.4 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.
- 5.1.5 In reviewing the fare tariff the Council will consult with the trade and publish the fares in a local newspaper at least 14 days before the fares are due to come into force.
- 5.1.6 These regulations in relation to fares do not apply to private hire vehicles.
- 5.1.7 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.
- 5.1.8 A hackney carriage driver must, if requested by the passenger, provide a written receipt for the fare paid.
- 5.1.9 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.

5.2 Private Hire

Private hire fares are not regulated by the Licensing Authority.

5.3 Fees

- 5.3.1 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.
- 5.3.2 It is, on the other hand, 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.

- 5.3.3 All fees payable will be reviewed annually as part of the Council's budgetary process. The Council will publish the fees in a local journal 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.

5.4 Payments

All cheques for licence applications should be made payable to 'Tonbridge and Malling Borough Council'. Payments can also be made electronically or by cash at the Council offices.

5.5 Refunds, Transfers , Duplicate Copies and Change of Address

- 5.5.1 In the case of any licence where the licence holder surrenders their licence prior to the expiry date, the Council will make a refund in respect of the whole months of the unexpired portion of the licence fee on request. The refund will reflect the up front costs paid by the Council including, but not limited to, the medical examination, DVLA mandate and administrative charges.
- 5.5.2 In common with most types of licence, an appropriate fee will be paid to cover the administrative costs associated with the transfer or re-issue of a licence.
- 5.5.3 Where the Council receives a request for a duplicate copy of any previously issued licence, an appropriate fee will apply to cover the associated administrative costs.
- 5.5.4 Where a change of address is undertaken, it requires the re-issue of all licences associated with that address. An appropriate fee will apply to cover the administration cost.

6 Disciplinary and Enforcement Measures

6.1 Enforcement

- 6.1.1 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 DoT 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.
- 6.1.2 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 1.3 of this document.

- 6.1.3 The Taxi Licensing and Enforcement Policy & Practice set out at APPENDIX L will be used to ensure that its enforcement effort is reasonable, transparent and well directed.

6.2 Disciplinary Hearings

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.

6.3 Penalty Points Scheme

- 6.3.1 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.
- 6.3.2 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.
- 6.3.3 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 points 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.
- 6.3.4 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 will be taken by either an authorised Licensing Officer or the Licensing Committee, dependent on the category of non compliance.
- 6.3.5 It is believed that the introduction of a penalty points scheme will assist 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 I.

6.4 Range of Powers

The Council may take any of the steps below upon receipt of evidence that an offence has been committed in relation to 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.

6.4.1 **Suspension**

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.

The decision to suspend may be taken by any authorised licensing officer.

6.4.2 **Revocation**

Where a driver has accumulated 12 penalty points or more under the Authority's penalty points system, the decision for revocation or suspension of the licence will be made by the Licensing and Appeals Committee sitting as a panel.

6.4.3 **Refusal to Renew**

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.

6.4.4 **Issuing of Warnings and Cautions**

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 L

6.4.5 Prosecution

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

- where the allegation is of a serious or repeated offence;

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

7 Offences

Offences in relation to hackney carriages 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 I and N.

8. Taxi Ranks

8.1 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)

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

9 Stands

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.

10 Amendments to the Policy.

10.1 Any substantial amendment to this policy, not specifically provided for will only be implemented after further consultation with the trade and the public. All substantial amendments must be authorised by the Licensing and Appeals Committee

10.2 For the purpose of this section, any substantial amendment is defined as one that:

- will have a significant financial effect on licence holders, or
- will have a significant procedural effect on licence holders, or
- may not be perceived by the trade or the public to be consistent with the published objectives in Section 1.3 of this policy

10.3 Any minor amendment to this policy, not specifically provided for in this policy, may be authorised by the Director of Central Service.

11 Rights of Appeal

11.1 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 N.

11.2 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.

12 Taxi and Private Hire Complaints Procedure

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

APPENDIX A

**HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES
SPECIFICATION AND SCHEDULE OF CONDITIONS**

Conditions that apply to both types of vehicles

1. General Construction

1.1 Every hackney carriage and private hire vehicle must comply in all respects with these specifications and conditions

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.

2. Age

2.1. There is no age restriction on vehicles being presented for licensing.

3. Vehicle Passenger Capacity

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.

4. Body and Vehicle Colour

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. In the case of any wheelchair accessible vehicle any colour would be permitted. In the case of a private hire vehicle any colour is permitted subject to that vehicle being wholly one colour.

4.2 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.

4.3 The overall length of the vehicle must not be not less than 14 feet (4267mm) in length

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

TMBC HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING POLICY 2010 – 2013

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.

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.

4.7 Windows must be provided at the sides and rear and passengers door windows must be capable of being easily opened and closed by passengers.

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 the Council must be fitted.

5. Steering

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.

6. Tyres

6.1 All tyres at normal pressure under load must have a suitable minimum circumference for correct operation of the taximeter.

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.

7. Suspension

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

8. Fuel Tank

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. Seating – 4/5/6/ seat saloon/estate cars

9.1 The driver's seat must be designed and constructed to accommodate the driver only

9.2 All seats must be properly cushioned or covered

9.3 In all cases of any passenger seat located in advance of the trailing edge of a front passenger door:-

- i) the width across the cushion must not be less than 19 inches (482mm)

- ii) the depth from the upholstery at the back to the front edge of the seat must not be less than 16 inches (406mm)
- iii) the vertical distance between the undeflected seat cushion and the roof lining immediately above must not be less than 33 inches (839mm)

9.4 In the case of the rear seat:-

- i) the width across the cushion must not be less than 51 inches (1295mm)
- ii) the depth from the upholstery at the back to the front edge of the seat must not be less than 16 inches (406mm)
- iii) the vertical distance between the undeflected seat cushion and the roof lining immediately above must not be less than 33 inches (839mm)

10. Seating – 6/7/8/seat ‘mini-bus’ style cars

10.1 The driver’s seat must be designed and constructed to accommodate the driver only.

10.2 All seats must be properly cushioned or covered.

10.3 Any passenger seat intended for one passenger located in advance of the trailing edge of the front passenger door must comply with the specifications:-

- i) the width across the cushion must not be less than 19 inches (482mm)
- ii) the depth from the upholstery at the back to the front edge of the seat must not be less than 16 inches (406mm)
- iii) the vertical distance between the undeflected seat cushion and the roof lining immediately above must not be less than 33 inches (839mm)

Any passenger seat intended for two passengers must have a minimum width of 32 inches (815mm) and comply with the conditions above.

10.4. Any seat fitted to the rear of the driver’s seat shall:-

- i) have a depth of not less than 16 inches (4065mm) from the back of the upholstery to the front edge of the seat
- ii) have a vertical distance of not less than 33 inches (839mm) between the undeflected seat cushion and the roof lining immediately above.

The minimum width of such seats shall be as follows:-

- iii) a seat intended for one passenger not less than 16 inches (406mm) wide

- iv) a seat intended for two passengers, not less than 32 inches (813mm) wide
- v) a seat intended for three passengers, not less than 48 inches (1219mm) wide
- vi) a seat intended for four passengers, not less than 64 inches (1625mm) wide

11. Luggage

11.1 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.

11.2 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.

12 Facilities for driver

12.1 The vehicle must be so designed and constructed that the driver has adequate room, can easily reach and operate the controls and give hand signals on the offside of the vehicle.

12.2 The vehicle must be fitted with at least two mirrors fitted externally to the vehicle, one to the offside and one to the nearside, with another mirror fitted internally. All mirrors are to be fitted and adjusted to afford the driver a clear view to the rear of the vehicle.

12.3 The vehicle must be fitted with adequate devices for demisting and defrosting the windscreen and rear window and for washing the windscreen.

13 Heating

13.1 An adequate heating system must be provided and maintained for the driver and passengers and, where the driver's compartment and passenger compartment are separate must be provided for independent control by the driver and passengers

14 Communication between Passenger and Driver

14.1 Sufficient means must be provided by which any person in the vehicle may communicate with the driver.

15 Floor covering

15.1 The floor of the vehicle must be covered with a suitable carpet, mat or other covering which can be readily cleaned.

16 Fire Extinguisher

16.1 A fire extinguisher must be carried in all licensed vehicles. Such an appliance must be either:-

- ABC General Purpose Powder
 - AFFF Foam
- and conform to BSEN 3, showing the appropriate kite mark

16.2 All extinguishers must be certified in accordance with the appropriate British Standard. The date of expiry must be clearly visible on the extinguisher.

17 First Aid Equipment

17.1 There shall be carried and maintained in such a position as to be readily available for use and prominently marked adequate and suitable first aid equipment suitable for treating minor injuries. (Beware! – a driver should not render aid to any other person unless he holds a current First Aid Certificate – Health and Safety Rules).

17.2 The Council will specify a required list of products for the first aid kit, however, as a minimum it is recommended that this kit contains:

- individually wrapped sterile adhesive dressings (assorted sizes)
- sterile eye pads
- individually wrapped triangular bandages
- safety pins
- medium sized individually wrapped sterile wound dressings (approximately 12cm x 12cm)
- large individually wrapped sterile wound dressings (approximately 18cm x 18cm)
- pair of disposable gloves

18 Radio Equipment

18.1 If two-way equipment is provided in the vehicle, it must be in a position approved by the Council and maintained in a sound condition.

19 Mobile Telephones

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

20 Identification Plates

20.1 The authorised identification plates issued by the Council must be affixed to the vehicle as follows:

- i) the large identification plate shall be permanently fixed to the rear of the vehicle in a conspicuous upright position and in a manner both to be approved by the Council, plates are NOT allowed within the rear window

- ii) the small identification plate shall be securely fixed to the inside of the vehicle in a conspicuous position and in a manner both to be approved by the Council.

20.2. No vehicle may be used or permitted to be used with any such plate concealed from view or so defaced that any word, letter, figure or material particular is illegible.

21 Fittings

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

22 Seat Belts

22.1 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.

22.2 In relation to the carriage of all passengers, including children, the requirements of all relevant legislation must be complied with.

23 Alteration of Vehicle

23.1 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.

23.2 Equipment must not be removed from a vehicle which is wheelchair accessible which would render the vehicle incapable of carrying wheelchair bound passengers.

24 Maintenance of Vehicle

24.1 The vehicle (including the engine area) and all fittings and equipment shall at all times when the vehicle is in use or available for hire be kept in an efficient, safe, tidy and clean condition and all relevant statutory requirements (including in particular those contained in the Road Vehicles (Construction and Use) Regulations in force from time to time shall be fully complied with.

24.2 Any corroded or damaged body panels or other parts must be properly repaired or renewed, all splits or cracks must be properly welded and all paintwork properly finished off.

24.3 All vehicles will be required to undertake a MoT and compliance test prior to the grant of an initial licence and thereafter at six monthly intervals.

24.4 Vehicles are liable to be examined at any time by an authorised officer of the council, the Vehicle Inspectorate or the Police.

25 Disability Access

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

- i) Access to and exit from the wheelchair position must not be obstructed in any manner at any time except by wheelchair loading apparatus.
- ii) 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.
- iii) A suitable restraint must be available for the occupant of a wheelchair.
- iv) Access ramps or lifts to the vehicle must be securely fixed prior to use, and be able to support the wheelchair, occupant and helper.
- v) Ramps and lifts must be securely stored in the vehicle before it may move off.

25.2 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.

25.3 Test certification is to be made available to an authorised officer of the council upon request.

26 Smoking

26.1 The Health Act 2006 and its associated regulations require vehicles to be smoke free. A vehicle means every type of enclosed hackney carriage and private hire vehicle shall be smoke free.

26.2 Hackney carriage and private hire vehicles are required to be smoke free at all times, whether they are being used for work or for private use.

26.3 Under the Health Act 2006 and the Smoke-free (Signs) Regulations 2007, all hackney carriage and private hire vehicles will also be required to display the prescribed no-smoking signs and the signage must be displayed in a prominent position.

26.4. The Smoke-free (Vehicle Operators and Penalty Notices) Regulations 2007 set out the persons who have legal duties to stop any person who is smoking in a smoke free vehicle, they are:

- the driver
- any person with management responsibilities for the vehicle
- any person in a vehicle who is responsible for order or safety in it

27 Animals

27.1 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.

27.2 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.

27.3 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.

28 The Authorised Officer

28.1 It is a criminal offence to obstruct an authorised officer of the Council.

28.2 From time to time it is necessary for an authorised officer to examine or check the vehicle.

Conditions that apply to Hackney Carriage Vehicles only

29 Seating for purpose built hackney carriages

29.1 In the case of any folding seat as found in purpose built hackney carriages:-

- a) the width of the cushion seat must not be less than 16 inches (406mm)
- b) the depth from the upholstery at the back to front edge of the seat must not be less than 14 inches (355mm)
- c) the shortest vertical distance between the undeflected seat cushion and the roof lining immediately above must not be less than 33 inches (839mm)
- d) The vertical distance between the highest point of the undeflected seat cushion and the top of the floor covering must not be less than 12 inches (305mm)
- e) where seats are placed facing each other there must be a clear space of 17 inches (432mm) between any part of the front of a seat and any part of any other seat which faces it.
- f) any such folding seat must be so constructed and arranged to rise automatically when not in use and must not obstruct any doorway when not in use.

29.2 Nothing in condition 29.1 above shall prevent

- a) the licensing of any purpose built hackney carriage which has 2 folding seats and a rear seat width of 45 inches (1143mm) for the carriage of four passengers
- b) the licensing of any purpose built hackney carriage which has 2 folding seats and a rear seat width of not less than 50 inches (1227 mm) for the carriage of 5 passengers

30. Taximeters

- 30.1. 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.

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

- 30.2 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.
- 30.3 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.
- 30.4 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.
- 30.5 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.
- 30.6 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.

30.3 The fare recorded on the face of the taximeter must be of an amount calculated strictly in accordance with the Council's table of fares in force for the time being.

30.4 When a taxi meter is programmed to record a new table of fares, action must be taken at that time to ensure that it is impossible to record on the face of the meter any table of fares other than that currently in force.

31 Roof Sign

31.1 There must be fitted externally to the roof in a position and of a size and type approved by the council a sign showing to the front the word 'TAXI' additionally the Proprietors trading name may be shown.

31.2 The rear of the sign may be left blank or have the word 'TAXI' showing. Alternatively, the proprietor's trading name and/or telephone number may be shown.

31.3 The sign shall be so arranged that it is illuminated during the hours of darkness when the vehicle is available for hire but that when the machinery of the taximeter is in action the illumination of the sign shall be extinguished.

31.4 The roof sign may be removed while the vehicle is being used in connection with a funeral, a wedding or other special occasion.

32 Fare Table

32.1 A fare table of a size and design approved by the Council must be permanently affixed in a conspicuous position inside the vehicle so that it is clearly and conveniently visible to any passenger being conveyed in the vehicle.

Conditions that apply to Private Hire vehicles only

33 Taximeter

33.1 Any taximeter with which the vehicle is provided shall be so constructed, attached and maintained as to comply with the following requirements:-

- i) the taximeter shall not be fitted with a flag or other device bearing the words 'FOR HIRE'
- ii) the taximeter shall be fitted with a key or other device the turning of which will bring the machinery of the taximeter into action and cause the word 'HIRED' to appear on the face of the taximeter
- iii) such key or device shall be capable of being locked in such a position that the machinery of the taximeter is not in action and no fare is recorded on the face of the taximeter
- iv) when the machinery of the taximeter is in action there shall be recorded on the face of the taximeter in figures clearly legible and free from ambiguity a fare not exceeding the rate or fare which the proprietor or drivers is entitled to demand and take in pursuance of the table of fares approved by the Council in that behalf for the hire of the vehicle by distance or by distance and time.
- v) the word 'FARE' shall be printed on the face of the taximeter in plain letters so as to clearly apply to the fare recorded thereon.
- vi) the taximeter shall be so placed that all letters and figures on the face thereof may at all times be plainly visible to any person being conveyed in the vehicle and that for the purpose the letters and figures shall be suitably illuminated during any period of hiring.
- vii) the taximeter and all fittings thereof shall be so affixed to the vehicle with seals or other appliances that it shall not be practicable for any person to tamper with them except by breaking, damaging or permanently displacing the seals or other appliances.

APPENDIX B

ADDITIONAL CONDITIONS FOR PRIVATE HIRE LIMOUSINES

1 TYPES OF VEHICLES

- 1.1 The vehicle must have one of the following:
- (i) A UK Single Vehicle Approval Certificate
 - (ii) A European Whole Vehicle Approval Certificate
 - (iii) UK Low Volume Type Approval Certificate
- 1.2.1 If the vehicle has a UK Single Vehicle Approval Certificate, the licensing authority will expect that the vehicle will have been modified in accordance with a program approved by the original vehicle manufacturer and have appropriate documentary proof.

2 VEHICLE AND SAFETY EQUIPMENT

- 2.1 Stretched limousines and similar vehicles shall comply with the existing conditions of licence applicable to all licensed private hire vehicles in so far as they are not superseded by these additional conditions and the local private hire licence fee shall be the same.
- 2.2 The Proprietor of a vehicle shall:-
- (i) ensure that the fire extinguisher required to comply with the standard Vehicle Conditions of Licence applicable to all licensed private hire vehicles should be mounted on brackets, in a convenient position in the driver's compartment;
 - (ii) ensure that the vehicle and all its fittings and equipment are at all times kept in a fit, serviceable, efficient, safe and clean condition and all relevant statutory requirements (*including those contained in the Motor Vehicles(Construction & Use) Regulations*) are fully complied with. Should the vehicle fail to comply with any legal requirement then the vehicle should be removed from service until the reasons for non-compliance is rectified;
 - (iii) ensure that loose luggage is not carried within the passenger compartment of the vehicle;
 - (iv) ensure that any CCTV cameras installed in the vehicle have received prior written approval of the Council; and
 - (v) display a Council approved sign, in a position clearly visible to passengers, warning customers that camera surveillance equipment may be in operation.
 - (vi) ensure the vehicle is fitted with tyres that meet both the size and weight specification.
- 2.3 Vehicles may be granted an exemption from the requirement under the conditions of licence for private hire vehicles to be right hand drive.
- 2.4 Limousines with sideways facing seating to be considered for private hire licensing.
- 2.4 The passenger compartment of the vehicle may be fitted with darkened or blackened glass.

TMBC HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING POLICY 2010 – 2013

- 2.5 The driver's compartment, including the front passenger seat must not be fitted with darkened or blackened glass.
- 2.6 The licence holder shall not at any time use or permit to be used in the vehicle a radio scanner or citizen band radio.

3 USE OF VEHICLE

- 3.2 The proprietor of the vehicle or the holder of a private hire operator's licence responsible for the booking shall:-
- (i) ensure that the vehicle is at all times only driven by a person who holds a current private hire vehicle driver's licence issued by Tonbridge and Malling Borough Council;
 - (ii) not permit to be conveyed in the vehicle more than the number of persons for which the vehicle is licensed, regardless of the age or size of the passengers;
 - (iii) ensure that in any advertisement publicising their limousine service, the vehicle is only licensed to carry a maximum of eight passengers.
 - (iv) not convey any passengers in the front compartment of the vehicle;
 - (v) not supply any intoxicating liquor in the vehicle
 - (vi) if the occupants are below the age of 18, there should be no alcohol in the vehicle for consumption or otherwise.
 - (vii) any glassware in the vehicle must be made of either shatterproof glass or plastic.
 - (viii) 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 passengers in the vehicle.
 - (ix) if the limousine parks to provide some sort of entertainment to its passengers, the relevant authorisation must be in place in accordance with the Licensing Act 2003.
 - (x) when directed by the Council, display and maintain any notices in conspicuous position.

4 VEHICLE IDENTIFICATION

- 4.1 The vehicle will be required to display the internal and external private hire vehicle licence plates which must normally be displayed by licensed private hire vehicles unless a plate exemption certificate has been granted. The proprietor shall ensure that:-
- (i) no private hire limousine vehicle identification shall be parted with, lent or used on any other vehicle and the loss or damage of the vehicle identification shall be reported to the Council as soon as the proprietor is aware of the loss. In the event of ceasing to use the vehicle for private hire (special event)

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purposes the proprietor shall surrender the vehicle identification and licence to the Council within seven days.

5 SIGNS, NOTICES, ETC

- 5.1 No signs, notices, advertisements, plates, marks, numbers, letters, figures, symbols, emblems or devices whatsoever shall be displayed on, in or from the vehicle, other than those specifically approved by the Council.

6 INSURANCE/MOT TEST CERTIFICATE

- 6.1 The vehicle must not be used to carry passengers for private hire special events unless there is in force for the vehicle:
- (i) a statutory M.O.T. and compliance test at a qualified testing station every six months. Due to the length of the wheelbase of this type of vehicle and the inability of normal testing stations to carry out such a test special arrangements have been made to have this testing/compliance carried out at the Sevenoaks District Council testing depot.
 - (ii) a policy of insurance covering the use of the vehicle for private hire special events and the proprietor of the vehicle is shown as the policy holder and any other licensed private hire limousine vehicle drivers who drive the vehicle are covered.

These documents shall be produced to an authorised officer of the Council or a Police Officer at such time and place as may be required.

- 6.2 If the insurance cover on the vehicle is cancelled, expires or fails to cover the use to which the vehicle is being put, the Licence Officer shall be informed immediately and the vehicle shall not be used until appropriate cover is obtained.

7 DEPOSIT OF LICENCES

- 7.1 If the proprietor permits or employs any other person to drive his private hire limousine vehicle, he shall, before that person commences to drive the vehicle, cause the driver to deliver to him a copy of his private hire vehicle driver's licence for retention until such time as the driver ceases to be permitted or employed to drive that vehicle.
- 7.2 The loss of any vehicle or driver licence shall be reported to the Council as soon as possible.

8 GENERAL CONDITIONS

- 8.1 All Operators will be required to sign a declaration stating that the vehicle will not carry more than 8 passengers and at the time of booking the vehicle, the restriction of carrying no more than 8 passengers shall be explained to the hirer.
- 8.2 The Licensee must produce a copy of the SVA certificate at time of licensing.

APPENDIX C

CODE OF PRACTICE FOR THE MANAGEMENT OF CAMERA SYSTEMS IN HACKNEY CARRIAGES AND PRIVATE HIRE VEHICLES LICENCED BY TONBRIDGE AND MALLING BOROUGH COUNCIL.

1. Introduction

1.1 The Code of Practice (hereinafter called the Code) sets out to ensure that in-car camera systems in hackney carriages and private hire vehicles (hereinafter called Licensed vehicles) licensed by Tonbridge and Malling Borough Council (hereinafter called the Licensing Authority) are used to prevent crime, identify the perpetrators of crime, enhance the health and safety of hire vehicle drivers and reduce the fear of crime. Adherence to this Code will ensure that the civil liberties of all parties are upheld.

1.2 Any person agreeing to this Code, by completing a copy of the certificate appended to this Code of Practice, will be accepting it as part of the conditions attached to their Proprietors / Vehicle Licence. Any non-compliance will be considered to be a breach of those conditions.

The Purpose of In Car Camera Systems

2.1 The purpose of in-car camera systems shall be to provide a safer environment for the benefit of hire vehicle drivers and passenger by:

- 2.1.2 Deterring and preventing the occurrence of crime;
- 2.1.3 Reducing the fear of crime;
- 2.1.4 Assisting the Police in investigating incidents of crime;
- 2.1.5 Assisting the Police in identifying missing persons.

3. Approval processing for a driver safety camera

3.1 How to have a product placed on the 'Approved List'

The manufacturer of a camera, a Taxi Association or a vehicle proprietor may apply in writing for a particular make/model of camera to be placed on the 'Approved List'

3.2 There will need to be evidence that the product has an appropriate level of conformity with regard to:

- 3.2.1 Safety issues when fitted inside the vehicle
- 3.2.2 Adequate image quality in day and night light conditions
- 3.2.3 Encryption of images stored
- 3.2.4 Appropriate public information signs

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- 3.2.5. Adequate secure storage of recording device and memory away from public access
- 3.2.6. Appropriate activation device

The manufacturer will supply the Council with de-encryption software free of charge to ensure compliance with the condition that all captured images should only be accessible to Authorised Officer in the first instance.

- 3.3 Authorised Officers will require appropriate product technical information in writing.
- 3.4 The camera will also be inspected in situ within a saloon vehicle mutually agreed between the applicant and Authorised officers. This will enable Officers to take a view on how the safety issues and conformity to conditions in respect of security.
- 3.5 If approved the product and manufacturer detail will be placed in the Council's 'Approved List' to inform licensed drivers of the product suitability.

4 Installation and Operation of In Car Camera Systems in Licensed Vehicles

- 4.1.1 Only in-car camera systems approved by the Licensing Authority will be installed in licensed vehicles.
- 4.1.2 In-vehicle CCTV equipment selected for installation must include an automatic overwriting function, so that images are only retained within the installed system storage device for a maximum period of 31 days from the date of capture.
- 4.1.3 In-vehicle CCTV systems must not be used to record conversations between members of the public as this is highly intrusive and unlikely to be justified except in very exceptional circumstances. You should choose a system without this facility wherever possible; however if the system comes equipped with a sound system then this functionality should be disabled.
- 4.1.4 There is a limited circumstance in which audio recording may be justified which is when there is a specific threat and then a 'panic button' may be appropriate. The time period when a recording will automatically finish must be as minimum as possible and should be declared at the time of submission for approval of the equipment.
- 4.1.5 The company or individual which has decided to have in-vehicle CCTV installed is the 'data controller' pursuant to the Data Protection Act 1998 and must register the CCTV system with Information Commissioner's Office. This notification is the process by which a data controller informs the Information Commissioner of certain details about their processing of personal information. These details are used to make an entry in the public register of data controllers. The notification requires renewal on an annual basis and payment of the appropriate fee.
- 4.1.6 Prior to installation of an approved system, any hire vehicle proprietor/owner wishing to install an in-car camera system must sign an agreement to comply with this Code.

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- 4.1.7 An approved installer will carry out the installation in accordance with the manufacturer's instructions and this Code.
- 4.1.8 All licensed vehicles with in-car camera systems installed shall display prominent notices visible from outside the vehicle and also within the vehicle at a point readily visible to passengers, declaring that an in-car camera system is in operation within the vehicle. Signage to be in accordance with Hackney Carriage and Private Hire Vehicles conditions. The driver may also verbally bring to the attention of passengers that in-car camera equipment is installed, if it is felt appropriate.
- 4.1.9 Unless already installed, signs must not be displayed if equipment is not installed or is not operational.
- 4.1.10 The installation will consist of one rear-facing camera in the hire vehicle unless the seating arrangements therein allows rear-facing passengers, in which case an additional camera may be installed to capture images of passengers in those seats.
- 4.1.11 All cameras will be installed above the level of the dashboard within the hire vehicle.
- 4.1.12 The installer will provide a certificate to the authority giving details of the installation.
- 4.1.13 The in-car camera system will at all times be operated in accordance with the manufacturer's instructions.
- 4.1.14 The operator of a hire vehicle with an in-car camera system will advise the Authority of any proposed changes to the installation.

5. Use of Information Recorded on In-Car Camera Systems

- 5.1 It is important that any person who suspects that a crime has been committed and that an in-car camera system may contain relevant information to the crime, should report that suspected crime to the Police as soon as possible. Any delay in reporting a suspected crime may result in evidence being lost.
- 5.2 Only persons approved by the Licensing Authority after consultation with West Kent Police may download or otherwise extract information from an in-car camera system, subject to Data Protection Legislation.
- 5.3 Under normal circumstances, for evidential purposes, two copies of an image on photographic quality paper will be required.
- 5.4 In the event of a serious crime investigation, where the equipment stores the image digitally and is therefore the primary evidence, it may be necessary for the data storage unit to be removed from the vehicle. This decision will be made by the investigating police officer. The Approved Person to remove the unit should, where possible, install a replacement to allow the system to continue to operate.

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- 5.5 The removal of information from the in-car camera system or the removal of the data storage unit will only be carried out by an Approved Person under the supervision of the investigating police officer or other nominated police officer. Police Officer supervision will not be required where removal is for maintenance purposes (with reference to 6.10) or in support of paragraph 6.11.
- 5.6 Upon removal, the photograph, data storage unit or other data will be handed immediately to the supervising police officer and no one else to ensure continuity of evidence.
- 5.7 The Approved Person will provide a certificate to the police officer confirming that they are an Approved Person to download data or remove the equipment, that they are properly trained for that function and that the equipment was working satisfactorily at that time. A statement containing the following information must also be provided: details of person requesting the image, details of vehicle in which equipment is installed (make and model, registration number and plate number), serial number of equipment, date and time the image was recorded and date and time the image was produced.
- 5.8 Only a police officer or a civilian working for the police or at the direction of the police may make copies of any image.
- 5.9 No other person will have direct access to the images stored in the in-car camera system. Any person, who believes that the image of a person responsible for a criminal act may be held in an in-car camera system, must report the matter to the police.
- 6.10 The Licensing Authority must be notified if any maintenance work is required to the in-car camera system.

7. Monitoring of the Use of In-Car Camera Equipment

- 7.1 Authorised officers of the Council will be responsible for monitoring the use of in-car camera systems.
- 7.2 Any authorised officer of the Council may, at any reasonable time and on production of identification, if requested, examine any in-car camera installation.
- 7.3 Any failure to comply with this Code of Practice will be reported to the appropriate Committee as a breach of the Proprietors / Vehicle Licence Conditions.

8. Liability

- 8.1 The in-car camera system will at all times remain the property of the licensed proprietor of the vehicle or the licensed driver who uses the vehicle, who will at all times be liable for its use in his/her vehicles. The licensed proprietor of the vehicle will be responsible for the maintenance of the system.

9. Review

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9.1 The working of the Code of Practice shall be subject to review. Reviews will take place on a three yearly basis and also at other times when it becomes apparent that a particular policy requires urgent review.

PARTNERSHIP AGREEMENT

I AGREE TO THE TERMS AND CONDITIONS OF THE ABOVE CODE OF PRACTICE ON THE MANAGEMENT OF CAMERA SYSTEMS IN HACKNEY CARRIAGES AND PRIVATE HIRE VEHICLES LICENSED BY TONBRIDGE AND MALLING BOROUGH COUNCIL.

SIGNED

CENTRAL SERVICES DIRECTOR

SIGNED

I am a Licensed Hackney Carriage Driver with Tonbridge and Malling Borough Council

I am a Licensed Private Hire Driver with Tonbridge and Malling Borough Council

(Delete as appropriate)

ADDRESS:

CONTACT TELEPHONE NUMBER:

VEHICLE PLATE NO

DRIVER BADGE NUMBER

DATED

APPENDIX D

HACKNEY CARRIAGE AND PRIVATE HIRE APPLICATION PROCEDURES

1. VEHICLES

1.1 New licences and renewal licences

1.1.2 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

1.1.3 The following documents must also be produced:-

- i) The Vehicle Registration Document issued by the DVLA, or proof of ownership
- ii) Insurance Certificate confirming the vehicle is covered for 'Hire and Reward' – if a cover note is provided licence holders will be required to produce further insurance certificates on or before the expiry of the cover note

If the documentation is complete, photocopies will be taken of all documents. The copies will be retained and the originals returned to the applicant.

1.1.4 The relevant fee must also be paid.

1.1.5 All of the above 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.

1.1.6 Officers may only accept complete applications comprising of all the necessary paperwork. If an application is received late, the applicant's vehicle may be unlicensed for a period of time during which they will be unable to use it as a licensed vehicle.

1.1.7 The successful completion of this procedure will be indicated by the issue of a test voucher 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 permits the driver to collect his vehicle licence plates.

1.2 Replacement Vehicle on an existing hackney carriage or private hire vehicle

- 1.2.1 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 in sufficient time to take into account that a minimum of one week is required before the appropriate licence can be issued. A testing voucher will then be issued and following a successful pass, a temporary licence plate will be issued.
- 1.2.2 There will an administration fee charged for this process which takes into account the supply of a new vehicle plate.

1.3 **Transfer application for an existing hackney carriage or private hire vehicle from one licensed driver to another**

- 1.3.1 This is the only licence that may be transferred
- 1.3.2 Documentation as described in 1.1.3 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.
- 1.3.3 An administration fee will be charged for function.

2. **DRIVERS**

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

- 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

- 2.1.2 All applicants must have held a full UK driving licence or equivalent for a minimum period of one year.

2.1.3 **New drivers**

- 2.1.4 The following documentation must then be provided before a drivers' badge will be issued:

- a) Full UK (or equivalent EC) 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

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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 will start from the time of the conversion.

- 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 Criminal Records Bureau Check. All overseas applicants who have resided in this country for less than three years 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 completed application form or evidence of registration with the Independent Safeguarding Authority (ISA). The role of this new body is to help prevent unsuitable people from working with children and vulnerable adults and is seen by this Council as a further safety check to ensure that a driver is a fit and proper person to hold a driver's badge.

Licensed drivers regularly carry schoolchildren and may have contracts with care homes and vulnerable adults. An ISA policy has been developed by the Kent County Council requiring that all school contract drivers be ISA registered. In this light it is proposed that all new drivers be ISA registered before being licensed and that this requirement be implemented for existing drivers as and when their badge is due for renewal. Unlike a CRB check, an ISA registration once completed, will not need to be renewed.

- f) 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.
- g) 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.

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

2.1.7 The appropriate fee must be paid

2.1.8 Upon successful completion of the above 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.

2.1.9 **Drivers renewing licences**

The following documentation must then be provided:

- a) Full UK (or equivalent EC) Drivers licence
- b) In the case of an applicant who has attained the age of 50,55,60 or 65 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 Criminal Records Bureau Check and ISA registration or proof of such registration. 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) 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.

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

2.1.10 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.

3. Private Hire Operator's

3.1 The applicant will complete, in full, the application form

3.1.1 The following documentation must be provided:

- a) Proof of public liability insurance
- b) Basic Criminal Records Bureau check (less than 3 months old) for each person named on the application form

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

3.1.2 The appropriate fee must be paid

3.1.3 The licence will be issued

4. Applications general

- 4.1 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.
- 4.2 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 paragraph 3.7, either by approval by authorised officers, or reference to the Central Services Director.
- 4.3 In both cases, the CRB check will be applied for before any further consideration of the application.
- 4.4 When the CRB 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 consideration of the applicant as not being a 'fit and proper person', and probable refusal of the application. Any information relating to criminal background will only be kept as long as it is necessary for assessment purposes.
- 4.5 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.

APPENDIX E

GUIDELINES RELATING TO THE RELEVANCE OF PREVIOUS CONVICTIONS

1 General Policy

1. Each case will be decided on its own merits.
- 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.
- 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.
- 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.
- 1.5 The following examples afford a general guide on the action which might be taken where convictions are disclosed.

2 Offences of Dishonesty

- 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.
- 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.
- 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.
- 2.4 In particular, an application will normally be refused where the applicant has a conviction for an offence of:-
 - Theft
 - Burglary
 - Fraud
 - Benefit fraud (including offences under ss.111A and 112 of the Social Security Administration Act 1992)
 - Handling or receiving stolen goods

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- 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.

- 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.

3 Violence

- 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.

- 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)
- 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.

3.4 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.

4. Drugs

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.

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.

5. Indecency Offences

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.

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.

6. Motoring Convictions

6.1 Major Traffic Offences

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.

More than one conviction for this type of offence within the last 5 years is likely to merit refusal.

A list of offences to which this paragraph applies can be found below.

6.2 Minor Traffic Offences

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.

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.

A list of offences to which this paragraph applies can be found below.

6.3 Hybrid Traffic Offences

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.

6.4 Disqualification

6.4.1 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.

6.4.2 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.

6.4.3 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 be refused 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.

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

- 6.5.1 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.
- 6.5.2 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.

6.6 Drunkenness

6.6.1 With a motor vehicle

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.

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.

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.

6.6.2 Not in a motor vehicle

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.

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.

6.7 Cautions and Endorsable Fixed Penalties

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

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

- 6.7.1 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.
- 6.7.2 The possibility of rehabilitation and the length of time before rehabilitation occurs depends on the sentence imposed, and not the offence committed.
- 6.7.3 Where a person is sentenced to imprisonment for a period exceeding thirty months, the conviction can never be spent.

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- 6.7.4 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.
- 6.7.5 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.
- 6.7.6 The determination as to whether certain convictions are spent, therefore, may be a relevant exercise.
- 6.7.7 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
a) Sentence of imprisonment or detention exceeding six months but not exceeding thirty months	Ten years
b) Sentence of cashiering, discharge with ignominy or dismissal with disgrace from Her Majesty's Service	Ten years
c) Sentence of imprisonment not exceeding six months	Seven years
d) Sentence of dismissal from Her Majesty's Service	Seven years
e) Sentence of detention in respect of a convictions in services disciplinary proceedings	Five years
f) A fine, compensation, probation, community service or combination order	Five years
g) Absolute discharge	Six months
h) Conditional discharge	One year or date of expiry of order
i) Action plan, curfew, drug treatment and testing order, or reparation order	Five years

RELEVANCE OF PREVIOUS CONVICTIONS

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)

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)

TMBC HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING POLICY 2010 – 2013

Inciting

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

APPENDIX F

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:-

TMBC HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING POLICY 2010 – 2013

- 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 G

DRIVER KNOWLEDGE TESTS

1. Introduction

- 1.1. In December 2010 the Licensing and Appeals Committee gave approval for the introduction of a simple verbal knowledge test for new applicants for a Hackney Carriage Drivers Licence.
- 1.2 In order to improve the standard of drivers it is now sought that this examination now be extended to all new applicants for a Private Hire Drivers badge and that the examination include a written test based on the new policy document. This would ensure that not only were new drivers conversant with the area but had knowledge of the laws and policy of the Council
- 1.3 All elements of the test must achieve the required pass mark.
- 1.4 Any number of tests may be taken.
- 1.5 All questions will be held on a data base and selected at random; therefore no test paper will ever be the same as any other and there are no specimen tests for view or study.
- 1.6 Any applicant who initially passes at private hire level can apply to sit the Knowledge test to upgrade to hackney carriage level.
- 1.8 Knowledge tests will be held bi-monthly and will last for up to 2 hours. Should approval be given for this extended test I would anticipate making a charge to the applicant to cover the cost of officers time.
- 1.9 If an applicant is unable to complete the papers in written format special arrangements can be made for him to reply to the test orally.
- 1.10 The Council will produce a test guidance booklet to assist applicants to prepare for the tests.
- 1.11 Any person found cheating will be disqualified from the test and another application will not be accepted for a period of one year.
- 1.12 Test will be marked within 2-3 weeks and applicants informed of the result. Authorised officers will not enter into any discussion regarding the outcome of the test.

2. The Knowledge Test

2.1 The test will consist of the following elements:

2.2 Local Geography

2.2.1 The test will consist of two parts;

- a) Ten questions requiring the shortest route by distance between a pick-up point and a destination. The pass marks required will be 7/10 for private hire and 8/10 for hackney carriage candidates.
- b) Fifty question relating to the locations of prominent buildings, such as schools, churches, day centres, hotels, flats, places of interest. The pass marks required are 35/50 for private hire and 40/50 for hackney carriage.

2.3 TMBC Hackney Carriage and Private Hire Policy

2.3.1 Ten questions relating to applicants knowledge and understating of the law in respect of hackney carriage and private hire licensing. The questions will relate to legislation and conditions etc and will also include questions relating to customer care, calculation of change for a given fare and basic conversation. Pass mark 7/10 for both private hire and hackney carriage.

APPENDIX H

PRIVATE HIRE DRIVER'S LICENCE CONDITIONS

1. Conduct of Driver

- 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 K**
- 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.
- 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 position and manner as to be plainly and distinctly visible at all times.
- 1.4. The driver shall not lend the badge to any other person or cause or permit any other person to wear it.
- 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.
- 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.
- 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.
- 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.
- 1.9. The driver when hired to drive to a particular destination shall proceed to that destination by the shortest available route.
- 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.

TMBC HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING POLICY 2010 – 2013

- 1.11 The driver shall convey a reasonable amount of luggage and afford reasonable assistance in loading and unloading luggage.
- 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 communicate to the driver by telephone.
- 1.13 The vehicle shall be presented in a clean and tidy condition for each journey.
- 1.14 The private hire vehicle must only be driven with the consent of the proprietor of the vehicle.
- 1.15 The driver must no drink or eat in the vehicle whilst in the presence of customers.
- 1.16 The driver must comply with any hirer's request not to play and radio or sound equipment which is not connected with the operation of the business.
- 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.
- 1.18 The driver shall note operate the horn late at night as a means of signalling that the vehicle has arrived.
- 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.
- 1.20 Drivers must not use a mobile phone whilst driving unless it is designed for hand-free operation.
- 1.21 Any change affecting the licence must be notified 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.
- 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.
- 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.
- 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.
- 1.25 The private hire driver's licence must be presented to the proprietor concerned at the beginning of the employment.
- 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:

- i) The safety, performance or appearance of the vehicle
- ii) 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.

- 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.

2. Medical Fitness of Driver

- 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.
- 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.

3. Fares and Journeys

- 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.
- 3.2 The driver shall, if requested by the hirer, provide him with a written receipt for the fare paid.
- 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 taximeter 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, 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.

- 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.
- 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.

4. Wheelchair Accessible Vehicles

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 1986.

APPENDIX I

PENALTY POINTS SYSTEM

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 are as follows:**
- 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.
- 1.3 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.
- 1.4 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.
- 1.5 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.
- 1.6 Points issued to either a proprietor or driver will be confirmed in writing within ten working days from the discovery of the contravention.
- 1.7 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.
- 1.8 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.
- 1.9 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.

TMBC HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING POLICY 2010 – 2013

- 1.10 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.
- 1.11 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.
- 1.12 A 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.
- 1.13 Any driver or vehicle proprietor or operator subject to suspension or revocation has the right of appeal to the Magistrates Court against the suspension or revocation. All suspensions will therefore be subject to a 21-day appeals period prior to implementation to allow for the formal appeals process.
- 1.14 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.
- 1.15 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.

2. Penalty Points Tariff

2.1 Legislative offences and penalties:

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

The offences are set out below under the relevant statute

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

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.

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

TMBC HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING POLICY 2010 – 2013

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		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	11	6
57	Failure to wait after a deposit to wait has been paid	3	6
58	Charging more than the legal fare	1	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

Local Government (Miscellaneous Provisions) Act 1976

Section	Offence	Level of Fine	Penalty Points
46(1)(A)	Using an unlicensed private hire vehicle	3 by virtue of s76	12
46(1)(b)	Driving a private hire vehicle without a private hire driver's licence	3 by virtue of s76	12
46(1)(c)	Proprietor of a private hire vehicle using an unlicensed driver	3 by virtue of s76	8
46(1)(d)	Operating a private hire vehicle without a private hire operators' licence	3 by virtue of s76	8
46(1)(e)	Operating a vehicle as a private hire vehicle when the vehicle is not licensed as a private hire vehicle	3 by virtue of s76	12
46(1)(e)	Operating a private hire vehicle when the driver is not licensed as a private hire driver	3 by virtue of s76	8
48(6)	Failure to display a private hire vehicle plate	3 by virtue of s76	4
49	Failure to notify the transfer of a vehicle licence	3 by virtue of s76	3
50(1)	Failure to present a hackney carriage or private hire vehicle for inspection upon request	3 by virtue of s76	6-12
50(2)	Failure to inform the Council where a hackney carriage or private hire vehicle is stored, if requested	3 by virtue of s76	3
50(3)	Failure to report an accident to the Council within seventy two hours	3 by virtue of s76	6
50(4)	Failure to produce the vehicle and insurance upon request	3 by virtue of s76	8-12

TMBC HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING POLICY 2010 – 2013

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 by virtue of s76	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 by virtue of s76	6
56(4)	Failure of a private hire operator to produce his licence upon request	3 by virtue of s76	4
57	Making a false statement or withholding information to obtain a hackney carriage private hire driver's licence	3 by virtue of s76	12
58(2)	Failure to return a plate after notice has been given following expiry, revocation, or suspension of a hackney carriage or private hire vehicle licence	3 by virtue of s76	6-12
61(2)	Failure to surrender a driver's licence after suspension, revocation, or refusal to renew	3 by virtue of s76	6-12
64	Permitting any vehicle other than a hackney carriage to wait on a hackney carriage rank	3 by virtue of s76	6
66	Charging more than the meter fare for a journey ending outside the District, without prior agreement		6-12
67	Charging more than the meter fare when a hackney carriage is used as a private hire vehicle	3 by virtue of s76	6-12
69	Unnecessarily prolonging a journey	3 by virtue of s76	6-12
71	Interfering with a taxi-meter with intent to mislead	3 by virtue of s76	12
73(1)(a)	Obstruction of an authorised officer of the Council or a police officer	3 by virtue of s76	12
73(1)(b)	Failure to comply with a requirement of an authorised officer of the Council or a police officer	3 by virtue of s76	6-12
73(1)(c)	Failure to give information or assistance to an authorised officer of the Council or police officer	3 by virtue of s76	6-12

2.2 Hackney Carriage and Private Hire Licensing Policy

Hackney Carriage and Private Hire Licensing Policy			
	Breach of Policy Requirement		Points
	Failure to wear a driver's badge		4-6
	Failure to adhere to the Code of Good Conduct for Licensed Drivers where not mentioned below		2-6
	Failure to ensure the safety of passengers		8-12
	Concealing or defacing a vehicle licence plate		6
	Failure to attend on time for a pre-arranged booking without reasonable cause		2
	Conveying a greater number of passengers than permitted		6

TMBC HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING POLICY 2010 – 2013

	Failure to give reasonable assistance with passenger's luggage		3
	Private hire soliciting for hire or accepting a fare that is not pre-booked		6-12
	Operating/using a vehicle that is not clean and tidy and in a safe condition internally or externally		3 - 6
	Driving without the consent of the proprietor		6
	Drinking or eating in the vehicle whilst carrying passengers		2
	Smoking in the vehicle at any time		6
	Causing excessive noise from any radio or sound-reproducing equipment		2
	Sounding the horn late at night to signal that the vehicle has arrived disturbing residents		2
	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
	Allowing a hackney carriage vehicle to stand in a position, not being a hackney carriage stand, to suggest that is plying for hire		6
	Using a non-hands free mobile telephone whilst driving		12
	Failure to advise of a relevant medical condition		6-12
	Failure to provide a receipt for a fare when requested		2
	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
	Failure to notify the Council of any amendment to the details of a licence within fourteen days		3
	Failure to produce a licence upon request		3
	Failure to notify within seven days of starting or terminating employment, the name and address of the proprietor and the term of employment		3
	Failure to show a private hire driver's licence to the private hire operator at the commencement of employment		2
	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
	Failure to surrender a driver's licence, badge or plate upon request		6-12
	Failure of a licence holder to disclose convictions within seven days of conviction		12
	Carrying any animal other than a guide, hearing or other prescribed assistance dog or those owned by bona-fide fare paying passengers		2
	Failure to search a vehicle after a journey or failure to take found property to the police within forty eight hours of finding		3
	Failure to report an accident within seventy two hours		3
	Failure to comply with requirements for the safe carrying of a wheelchair		6
	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
	Operating/using a vehicle which is not maintained in a sound and roadworthy condition		6-12
	Failure to carry an approved fire extinguisher		3
	Failure to carry an approved first aid kit		3
	Modifying a vehicle without the consent of the Council		12
	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
	Affixing or displaying a roof sign on a private hire vehicle		12
	Displaying a sign or advertisement on a licensed vehicle that does not satisfy the policy requirements or has not been approved by the		4

TMBC HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING POLICY 2010 – 2013

	Council		
	Carrying radio equipment or similar devices not in accordance with council requirements		2
	Using a taxi-meter that does not conform to Council requirements		6
	Driving with no insurance or inadequate insurance for the vehicle		12
	Permitting the vehicle to be used for any illegal or immoral purposes		12
	Failure of a private hire operator to ensure that office staff act in a civil and courteous manner at all times		3
	Failure of a private hire operator to keep the operating premises in accordance with council requirements		3
	Failure of a private hire operator to ensure that all vehicles operated by him are adequately insured		12
	Failure of a private hire operator to obtain public liability insurance for the operating premises if the public are allowed access		12

APPENDIX J

CODE OF GOOD CONDUCT FOR LICENSED DRIVERS

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.

2. Responsibility to the Trade

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.

3. Responsibility to Clients

Licence holders shall:

- a) maintain their vehicles in a safe and satisfactory condition at all times
- b) keep their vehicles clean and suitable for hire to the public at all times
- c) attend punctually when undertaking pre-booked hiring
- d) assist, where necessary, passengers' ingress to and egress from vehicles
- c) offer passengers reasonable assistance with luggage

4. Responsibility to Residents

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

- a) not sound the vehicle's horn illegally

TMBC HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING POLICY 2010 – 2013

- b) keep the volume of all audio equipment and two-way radios to a minimum
- c) switch off the engine of 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:
 - i) rank in an orderly manner and proceed along the rank in order and promptly
 - ii) remain in the vehicle
- f) at private hire offices:
 - i) not undertake servicing or repairs of vehicles
 - ii) not allow volume of all audio equipment and two-way radios to unduly disturb residents of the neighbourhood
 - iii) take whatever additional action is necessary to avoid disturbance to residents in the neighbourhood, which might arise from the conduct of their business.

5. Responsibility towards Council Employees

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.

6. General

Drivers shall:

- a) pay attention to personal hygiene and dress, so as to present a professional image to the public
- b) be polite, helpful and fair to passengers
- c) 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
- d) obey all Traffic Regulation Orders and directions at all time
- e) not smoke at any time when inside the vehicle
- f) 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*)
- g) 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

- h) fulfil their responsibility to ensure compliance with legislation regarding the length of working hours
- i) not eat in the vehicle in the presence of customers

7. Disciplinary Hearings

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

APPENDIX K

PRIVATE HIRE OPERATOR'S LICENCE CONDITIONS

1. Standards of Service

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 hire, it arrives punctually at the appointed place, unless delayed by 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 his responsibilities to ensure compliance with legislation regarding the length of working hours.

2. Records

- 2.1 Records, which must be kept by private hire operators under the Local Government (Miscellaneous Provisions) Act 1976, shall be kept in a non-erasable form in a suitable log or book, the pages of which are numbered consecutively.
- 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.
- 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.
- 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.

3. Bookings

- 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:

TMBC HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING POLICY 2010 – 2013

- 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).

4. Vehicles

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

5. Drivers

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
- f) Expiry dates of drivers badges and vehicle licences

6. Disclosure of Convictions

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 operators licence.

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.

7. Insurance

- 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.
- 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.

8. Private Hire Drivers' Licences

- 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

9. Miscellaneous

- 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.
- 9.2 The operator shall ensure that the licence plate issued and allocated by the Council is affixed to the outside of the vehicle in a position as approved by an authorised officer.
- 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.
- 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.
- 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 of 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.

APPENDIX L

TAXI LICENSING AND ENFORCEMENT POLICY

1. Enforcement Policy Statement

- 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.
- 1.2 This policy is intended to fairly and firmly enforce the law in a consistent and transparent way. The Council has adopted or is in agreement with the provisions of the Government's Enforcement Concordat. This is reflected in the Councils' Common enforcement Policy which underpins all service or topic specific enforcement policies adopted by the council. This represents a graduated approach to enforcement based on the principles of:
- agreed standards and procedures
 - helpfulness
 - openness
 - transparency
 - proportionality
 - consistency
 - complaints procedure
- 1.2 All enforcement action, be it verbal warnings, the issue of written warnings, 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.
- 1.3 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).
- 1.4 Authorised officers must be fully acquainted with the requirements of the policy and appropriate training will be provided where required.
- 1.5 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.

2 Enforcement Options

- 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.
- 2.2 Licence application and 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:-

TMBC HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING POLICY 2010 – 2013

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

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

2.3.1 Licence Applications:

- grant licences subject to the Council's Hackney Carriage and Private Hire Licensing Policy requirements
- refuse to grant a licence.

2.3.2 Enforcement Action:

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

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

3. Informal Action

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.

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;
- 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.

4. Appearance before the relevant Committee of the Council

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.

4.2 Current licence holders who report convictions or breach relevant legislation during the period of their licence may be brought before the Licensing and Appeals Panel.

TMBC HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING POLICY 2010 – 2013

- 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

5 Section 68 Notices (Stop Notices)

- 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.
- 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.
- 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.
- 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.

6 Appeals

- 6.1 Appeals against decisions of the Licensing and Appeals panel or authorised officers may be made to the Magistrates' Court.
- 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 take place immediately regardless of the fact that the driver may have made an appeal against the decision to the Magistrates' Court.
- 6.3 A driver can also appeal against a refusal to renew his drivers licence, but as his previous licence would have already expired he cannot continue to drive as he would no longer hold a current licence.

7 Prosecution

- 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.
- 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.
- 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.
- 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.
- 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 (November 2004), issued by the Crown Prosecution Service, provides guidance which will be considered, including relevant public interest criteria
- 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 ability of any important witnesses and their willingness to cooperate;
 - the willingness of the party to prevent a recurrence of the problem;
 - the probable public benefit of a prosecution and the importance of the case e.g. whether it might establish a legal precedent. (As indicated above, advice on the public interest is contained in the

- Code for Crown Prosecutors. The general thrust of the advice contained therein is that, the graver the offence, the less likelihood there will be that the public interest will allow anything other than a prosecution);
- whether other action, such as issuing a simple caution in accordance with the Home Office Circular 016./2008 would be more appropriate or effective.

8 Simple Cautions

- 8.1 A simple caution may be used as an alternative to a prosecution in certain circumstances.
- 8.2 The purposes of the simple caution are:-
- to deal quickly and simply with less serious offences;
 - to divert less serious offences away from the Courts;
 - to reduce the chances of repeat offences
- 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 admit the offence;
 - the suspected offender must understand the significance of a simple caution and give informed consent to being cautioned.
- 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).
- 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.

9 Transparency

- 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.
- 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.
- 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 M

Taxi and Private Hire Complaints Procedure

1. Complaints Procedure Policy

- 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.
- 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.
- 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.
- 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.
- 1.5 The interview will be conducted under caution and will either be contemporaneously recorded in writing or electronically recorded.
- 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.
- 1.7 The complainant will then be advised of the result of that decision which will then be carried out.
- 1.8 At the conclusion of the investigation both the complainant and perpetrator will be advised in writing of the outcome.
- 1.9 The perpetrator's driver record held by the Council will be updated as to the circumstances and resolution of the complaint.
- 1.10 Any informal resolution will also be recorded on the driver's record.

APPENDIX N

GROUND FOR APPEAL TO MAGISTRATES' COURT

1. Any person aggrieved by any conditions attached to a hackney carriage licence may appeal to a Magistrates Court under Section 47, Local Government (Miscellaneous Provisions) Act 1976
2. Any person aggrieved by the refusal of the Council to grant a private hire vehicle licence under the Local Government (Miscellaneous Provisions) Act 1976, or by any conditions specified in such a licence, may appeal under Section 48 of such Act
3. Any person aggrieved by the refusal of the Council to grant a licence to drive private hire vehicles, or by any conditions attached to the grant of such a driver's licence, may appeal to a Magistrates' Court under Section 52, Local Government (Miscellaneous Provisions) Act 1976
4. Any person aggrieved by the refusal of the Council to grant a licence to operate private hire vehicles under the Local Government (Miscellaneous Provisions) Act 1976, or by any conditions attached to the grant of such a licence, may appeal to a Magistrates' Court under Section 55 of the Local Government (Miscellaneous Provisions) Act 1976
5. Any person aggrieved by the refusal of the Council to grant a licence to drive a hackney carriage on the ground that he is not a fit and proper person to hold such a licence may appeal to a Magistrates' Court under Section 59 of the Local Government (Miscellaneous Provisions) Act 1976
6. Any driver aggrieved by a decision of the Council to suspend, revoke or refusal to renew any licence for a hackney carriage or private hire vehicle may appeal to a Magistrates' Court under Section 60 of the Local Government (Miscellaneous Provisions) Act 1976
7. Any driver aggrieved by a decision of the Council to suspend, revoke or refusal to renew any licence to drive a hackney carriage or private hire vehicle may appeal to Magistrates' Court under Section 61 of the Local Government (Miscellaneous Provisions) Act 1976
8. Any operator aggrieved by a decision of the council to suspend, revoke or refusal to renew an operator's licence may appeal to a Magistrates' Court under Section 62 of the Local Government (Miscellaneous Provisions) Act 1976

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 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

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
Section 56	(i)

TMBC HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING POLICY 2010 – 2013

Operators of private hire vehicles	<p>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>
Section 57 power to require applicants to submit information	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
Section 58 Return of identity plate or disc on revocation or expiry of licence	<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>
Section 59 Qualifications for drivers of hackney carriages	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
Section 64 Fares for long journeys	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
Section 67 Hackney carriages used for private hire	N90 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
Section 69 Prolongation of journeys	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
Section 71 taximeters	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
Section 73 Obstruction of authorised officers	<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>