

# TONBRIDGE & MALLING BOROUGH COUNCIL



## EXECUTIVE SERVICES

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### Chief Executive

Julie Beilby BSc (Hons) MBA

Gibson Building  
Gibson Drive  
Kings Hill, West Malling  
Kent ME19 4LZ  
West Malling (01732) 844522

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**NB - This agenda contains proposals, recommendations and options. These do not represent Council policy or decisions until they have received proper consideration through the full decision making process.**

Contact: Committee Services  
[committee.services@tmbc.gov.uk](mailto:committee.services@tmbc.gov.uk)

6 March 2017

To: MEMBERS OF THE LICENSING AND APPEALS COMMITTEE  
(Copies to all Members of the Council)

Dear Sir/Madam

Your attendance is requested at a meeting of the Licensing and Appeals Committee to be held in the Civic Suite, Gibson Building, Gibson Drive, Kings Hill, West Malling on Tuesday, 14th March, 2017 commencing at 7.30 pm

Yours faithfully

JULIE BEILBY

Chief Executive

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10. Urgent Items 113 - 114

Any other items which the Chairman decides are urgent due to special circumstances and of which notice has been given to the Chief Executive.

## **MEMBERSHIP**

Cllr Mrs J A Anderson (Chairman)  
Cllr Mrs P A Bates (Vice-Chairman)

Cllr O C Baldock  
Cllr Mrs S M Barker  
Cllr M C Base  
Cllr Mrs B A Brown  
Cllr M A Coffin  
Cllr B T M Elks  
Cllr Mrs F A Kemp

Cllr S M King  
Cllr H S Rogers  
Cllr R V Roud  
Cllr A K Sullivan  
Cllr M Taylor  
Cllr F G Tombolis

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Apologies for absence

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Declarations of interest

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## TONBRIDGE AND MALLING BOROUGH COUNCIL

### LICENSING AND APPEALS COMMITTEE

Tuesday, 29th November, 2016

**Present:** Cllr Mrs J A Anderson (Chairman), Cllr Mrs P A Bates (Vice-Chairman), Cllr O C Baldock, Cllr Mrs S M Barker, Cllr Mrs B A Brown, Cllr M A Coffin, Cllr S M King, Cllr H S Rogers, Cllr R V Roud, Cllr A K Sullivan and Cllr F G Tombolis

Councillor N J Heslop was also present pursuant to Council Procedure Rule No 15.21.

Apologies for absence were received from Councillors M C Base, B T M Elks, Mrs F A Kemp and M Taylor

#### PART 1 - PUBLIC

##### **LA 16/90 DECLARATIONS OF INTEREST**

There were no declarations of interest made in accordance with the Code of Conduct.

##### **LA 16/91 MINUTES**

**RESOLVED:** That the Minutes of the meeting of the Licensing and Appeals Committee held on 10 October 2016 be approved as a correct record and signed by the Chairman.

#### MATTERS FOR RECOMMENDATION TO THE COUNCIL

##### **LA 16/92 DELEGATION OF FILM CLASSIFICATION**

The Committee was reminded that all films for public exhibition on licensed premises must be classified by either the British Board of Film Classification (BBFC) or the Licensing Authority under powers contained in the Licensing Act 2003 and the report set out details of a proposal to delegate authority for the classification of films from the Licensing Committee to the Director of Central Services and Monitoring Officer.

**RECOMMENDED:** That the Director of Central Services be granted the authority to classify films. ◀

##### **LA 16/93 POLICY STATEMENT - DISCLOSURE AND BARRING SERVICE**

The report of the Director of Central Services and Monitoring Officer set out details of the arrangements required for the secure storage, handling, use, retention and disposal of Disclosures and Disclosure Information received from the Disclosure and Barring Service (DBS) in

respect of applications for Hackney Carriage, Private Hire and Dual Driver's Licences.

**RECOMMENDED:** That the Licensing DBS Policy Statement for Tonbridge and Malling Borough Council in respect to Secure Storage, Handling, Use, Retention and Disposal of Disclosures and Disclosure Information, as set out at Annex 1 to the report, be approved by the Council.

**DECISIONS TAKEN UNDER DELEGATED POWERS IN ACCORDANCE WITH PARAGRAPH 3, PART 3 OF THE CONSTITUTION**

**LA 16/94 REVIEW OF FEES AND CHARGES 2017/18 - LICENSING FEES**

The report of the Director of Central Services and Monitoring Officer set out details of the proposed scale of fees and charges for 2017/18 in respect of Hackney Carriage and Private Hire Licences, Pleasure Boats and Boatmen, Scrap Metal Dealers, Animal Welfare Licences, Street Trading Consents, Sex Establishments, Acupuncture, Tattooing, Ear Piercing and Electrolysis and Hypnotism.

**RESOLVED:** That the proposed scale of fees for licences, consents and registrations, as set out in Annex 1 to the report, be adopted with effect from 1 April 2017.

**MATTERS SUBMITTED FOR INFORMATION**

**LA 16/95 LICENSING OVERVIEW**

The Licensing and Community Safety Manager provided a verbal update on recent activity within the Licensing and Community Safety services which included the outcome of a recent Appeal to the Magistrates Court against the revocation of private hire driver's licence; the consultation process to be undertaken following the receipt of a request for a fare increase and the production of a Consolidated Order for the Regulation of Taxi Stands in Tonbridge. The Committee congratulated Mr Terry Hill of Castle Cars on winning two national awards.

**MATTERS FOR CONSIDERATION IN PRIVATE**

**PART 2 - PRIVATE**

**LA 16/96 EXCLUSION OF PRESS AND PUBLIC**

There were no items considered in private.

The meeting ended at 8.26 pm

## TONBRIDGE AND MALLING BOROUGH COUNCIL

### LICENSING AND APPEALS PANEL

Thursday, 15th December, 2016

**Present:** Cllr Mrs J A Anderson (Chairman), Cllr H S Rogers and Cllr R V Roud  
Together with representatives of the Licensing Authority

#### PART 1 - PUBLIC

##### **LA 16/97 DECLARATIONS OF INTEREST**

There were no declarations of interest made in accordance with the Code of Conduct.

##### **LA 16/98 EXCLUSION OF PRESS AND PUBLIC**

The Chairman moved, it was seconded and

**RESOLVED:** That as public discussion would disclose exempt information, the following matters be considered in private.

#### PART 2 - PRIVATE

#### DECISIONS TAKEN UNDER DELEGATED POWERS IN ACCORDANCE WITH PARAGRAPH 3, PART 3 OF THE CONSTITUTION

##### **LA 16/99 APPLICATION FOR A PROBATIONARY PRIVATE HIRE DRIVER'S LICENCE - CASE NO 25/2016**

**(Reason: LGA 1972 Sch 12A Paragraph 1 – Information relating to an individual)**

Consideration was given to the report of the Director of Central Services and Monitoring Officer regarding an application for a Probationary Private Hire Driver's Licence following receipt of information from the Disclosure and Barring Service (DBS) that the Applicant had received a Caution under S.1(2)(A)-S.2 of the Fraud Act 2006 on 17 January 2014 for making a False Representation on 4 September 2013.

The Panel listened carefully to the information provided by the Applicant and noted that he had declared the Caution on the questionnaire which accompanied his application. The Panel had due regard to the report of the Director of Central Services and to the following:-

- (1) that Paragraph 1.5.4 of the Policy stated that Public Safety is paramount when processing a prospective candidate to ensure that the applicant is a 'Fit and Proper' person to hold a licence;
- (2) that Paragraph 5.7.3 of the Policy regarding 'Fit and Proper' requires that the Council consider each case on its merits;
- (3) that Paragraph 12.2.4 of the Policy regarding the relevance of previous convictions stated that an application would normally be refused where an applicant has a conviction for an offence of Fraud if the conviction is less than 4 years prior to the date of the application;
- (4) with regard to Offences of Dishonesty, Paragraph 12.2.1 of the Policy stated that Drivers of hackney carriage and private hire vehicles are expected to be persons of trust; and
- (5) with regard to Offences of Dishonesty, Paragraph 12.2.2 of the Policy stated that members of the public entrust themselves to the care of the drivers.

The Panel found that Tonbridge and Malling Borough Council had a clear policy in relation to previous convictions and cautions and that the Applicant had accepted a Caution for Dishonesty, which was an admission of guilt. While the Panel had listened carefully to the Applicant's explanation of the circumstances surrounding the Caution it saw no reason to depart from the Council's Policy and therefore

**RESOLVED:** That the application for a Probationary Private Hire Driver's Licence be REFUSED on the basis that the Applicant was not a fit and proper person to hold the licence.

The meeting ended at 10.17 am  
having commenced at 9.30 am

**TONBRIDGE AND MALLING BOROUGH COUNCIL**

**LICENSING AND APPEALS PANEL**

**Thursday, 15th December, 2016**

**Present:** Cllr Mrs J A Anderson (Chairman), Cllr H S Rogers and Cllr R V Roud  
Together with representatives of the Licensing Authority

**PART 1 - PUBLIC**

**LA 16/100 DECLARATIONS OF INTEREST**

There were no declarations of interest made in accordance with the Code of Conduct.

**LA 16/101 EXCLUSION OF PRESS AND PUBLIC**

The Chairman moved, it was seconded and

**RESOLVED:** That as public discussion would disclose exempt information, the following matters be considered in private.

**PART 2 - PRIVATE**

**DECISIONS TAKEN UNDER DELEGATED POWERS IN ACCORDANCE WITH PARAGRAPH 3, PART 3 OF THE CONSTITUTION**

**LA 16/102 APPLICATION FOR A PROBATIONARY PRIVATE HIRE DRIVER'S LICENCE - CASE NO 21/2016**

**(Reason: LGA 1972 Sch 12A Paragraph 1 – Information relating to an individual)**

Consideration was given to the report of the Director of Central Services and Monitoring Officer regarding an application for a Probationary Private Hire Driver's Licence following receipt of information from the Disclosure and Barring Service (DBS) that the Applicant had received a Conviction under S.3 of the Sexual Offences Act 2003 on 3 July 2013 for Sexual Assault on 8 February 2013 and that an Appeal against the Conviction had been dismissed on 23 January 2014.

The Panel listened carefully to the information provided by the Applicant and noted that he had declared the Conviction on the questionnaire which accompanied his application. The Panel had due regard to the report of the Director of Central Services and to the following:-

- (1) that Paragraph 1.5.4 of the Policy stated that Public Safety is paramount when processing a prospective candidate to ensure that the applicant is a 'Fit and Proper' person to hold a licence;
- (2) that Paragraph 5.7.3 of the Policy regarding 'Fit and Proper' requires that the Council consider each case on its merits;
- (3) that Paragraph 12.5.1 of the Policy regarding the relevance of previous convictions stated that an application would normally be refused where an applicant has a conviction for an offence of Sexual Assault if the conviction is less than 10 years prior to the date of the application; and
- (4) with regard to Indecency Offences, Paragraph 12.5.1 of the Policy stated that as Drivers of hackney carriage and private hire vehicles often carry unaccompanied passengers, applicants with convictions for soliciting, importuning, indecent exposure or any sexual offence would normally be refused a licence until they can show a substantial period (usually between 5 and ten years) free from any such conviction.

The Panel found that Tonbridge and Malling Borough Council had a clear policy in relation to previous convictions and that the Applicant had been convicted of Sexual Assault on 3 July 2013, which was within the five year period. While the Panel had listened carefully to the Applicant's explanation of the circumstances surrounding the Conviction it could not discount the fact that the conviction by a Magistrates Court was confirmed at the Crown Court. In addition the Panel had regard to the Speeding offences and disqualification in July 2013 and found that, in these circumstances, the Council's Policy required a period of 2 years from restoration of a Driving Licence before an application is likely to be successful. The Panel noted that, while this period had passed, the fact of the disqualification was still relevant to the determination of the Application. The Panel, therefore

**RESOLVED:** That the application for a Probationary Private Hire Driver's Licence be REFUSED on the basis that the Applicant was not a fit and proper person to hold the licence.

The meeting ended at 11.03 am  
having commenced at 10.23 am

**TONBRIDGE AND MALLING BOROUGH COUNCIL**

**LICENSING AND APPEALS PANEL**

**Thursday, 15th December, 2016**

**Present:** Cllr Mrs J A Anderson (Chairman), Cllr H S Rogers and Cllr R V Roud

Together with representatives from the Licensing Authority and the Licensed Driver

**PART 1 - PUBLIC**

**LA 16/103 DECLARATIONS OF INTEREST**

There were no declarations of interest made in accordance with the Code of Conduct.

**LA 16/104 EXCLUSION OF PRESS AND PUBLIC**

The Chairman moved, it was seconded and

**RESOLVED:** That as public discussion would disclose exempt information, the following matters be considered in private.

**PART 2 - PRIVATE**

**DECISIONS TAKEN UNDER DELEGATED POWERS IN ACCORDANCE WITH PARAGRAPH 3, PART 3 OF THE CONSTITUTION**

**LA 16/105 REVIEW OF HACKNEY CARRIAGE DRIVER'S LICENCE – CASE NO 24/2016**

**(Reason: LGA 1972 Sch 12A Paragraph 1 – Information relating to an individual)**

Consideration was given to the report of the Director of Central Services and Monitoring Officer regarding a review of a Hackney Carriage Driver's Licence (Badge No 1521) following complaints by three drivers concerning an incident at the taxi stand, Waterloo Road, Tonbridge on the evening of 28 October 2016. The Panel was asked to determine whether the licence holder should still be considered a fit and proper person to hold a licence in light of the complaints received by the Licensing Authority. Copies of the Statements were set out in Annexes 2 to 5 of the report and an additional Written Statement by the licence holder was submitted to the hearing.

The Panel had regard to the Tonbridge and Malling Borough Council Hackney Carriage and Private Hire Policy and in particular to section 17.2.1(C) which required drivers to behave in a civil, orderly and responsible manner at all times; section 17.3(A) which required drivers to ensure that they are courteous at all times when talking to anyone, especially customers and section 17.5(B) which stated that the hackney carriage at the top of the rank will take the customer to any destination within the Borough regardless of how short the journey may be.

The Panel listened carefully to the information provided by the licence holder and concluded that there was a history of unacceptable behaviour between the Driver and a number of other drivers on the taxi rank. The Panel noted that, while it had received contradictory evidence from a number of people, it was apparent from the Driver's evidence that he had been involved in altercations and that this was a Breach of the Hackney Carriage and Private Hire Drivers' Code of Conduct. In light of the evidence heard by the Panel it

**RESOLVED:** That Hackney Carriage Driver (Badge No 1521) be issued with a written warning reminding him of the Code of Conduct and advising that this would remain on his file and may be taken into account in any future disciplinary action.

The meeting ended at 12.06 pm  
having commenced at 11.18 am



**TONBRIDGE AND MALLING BOROUGH COUNCIL**

**LICENSING AND APPEALS PANEL**

**Thursday, 15th December, 2016**

**Present:** Cllr Mrs J A Anderson (Chairman), Cllr H S Rogers and Cllr R V Roud  
Together with the representatives of the Licensing Authority

**PART 1 - PUBLIC**

**LA 16/106 DECLARATIONS OF INTEREST**

There were no declarations of interest made in accordance with the Code of Conduct.

**LA 16/107 EXCLUSION OF PRESS AND PUBLIC**

The Chairman moved, it was seconded and

**RESOLVED:** That as public discussion would disclose exempt information, the following matters be considered in private.

**PART 2 - PRIVATE**

**DECISIONS TAKEN UNDER DELEGATED POWERS IN ACCORDANCE WITH PARAGRAPH 3, PART 3 OF THE CONSTITUTION**

**LA 16/108 APPLICATION FOR A PROBATIONARY PRIVATE HIRE DRIVER'S LICENCE - CASE NO 22/2016**

**(Reason: LGA 1972 Sch 12A Paragraph 1 – Information relating to an individual)**

Consideration was given to the report of the Director of Central Services and Monitoring Officer regarding an application for a Probationary Private Hire Driver's Licence following receipt of information from the Driver Vehicle and Licensing Agency (DVLA) regarding points received for motoring offences. The Panel noted that the Applicant had declared only one of the offences listed on the DVLA report on the questionnaire which accompanied his application.

The Panel listened carefully to the information provided by the Applicant and accepted his explanation in relation to an allegation of ABH against him which he had disclosed on the questionnaire which accompanied the application. The Panel had due regard to the report of the Director of Central Services and to the following:-

- (1) that Paragraph 1.5.4 of the Policy stated that Public Safety is paramount when processing a prospective candidate to ensure that the applicant is a 'Fit and Proper' person to hold a licence;
- (2) that Paragraph 5.7.3 of the Policy regarding 'Fit and Proper' requires that the Council consider each case on its merits; and
- (3) that Paragraph 12.7.2 of the Policy regarding DVLA Penalty Points stated that an application would normally be refused where the applicant has 6 or more penalty points on his DVLA licence.

The Panel found that Tonbridge and Malling Borough Council had a clear policy in relation to points accrued on Driving Licences and, in general, would require a period of 6 months after those points had expired before a licence would be granted. However, the Panel had regard to the fact that the period would expire at the end of December 2016 and that, while the convictions were recent, the offences had happened a number of years ago. The Panel, therefore

**RESOLVED:** That the application for a Probationary Private Hire Driver's Licence be APPROVED subject to the following conditions:-

- (1) within one month of the date of this Hearing the Driver will provide the Licensing Team with an up to date Disclosure and Barring Service (DBS) check; and
- (2) that the Driver attend meetings with the Licensing Team every two months during the probationary period.

The meeting ended at 1.23 pm  
having commenced at 12.25 pm

**TONBRIDGE AND MALLING BOROUGH COUNCIL**

**LICENSING AND APPEALS PANEL**

**Thursday, 15th December, 2016**

**Present:** Cllr Mrs J A Anderson (Chairman), Cllr H S Rogers and Cllr R V Roud

Together with representatives from the Licensing Authority and the applicant.

**PART 1 - PUBLIC**

**LA 16/109 DECLARATIONS OF INTEREST**

There were no declarations of interest made in accordance with the Code of Conduct.

**LA 16/110 EXCLUSION OF PRESS AND PUBLIC**

The Chairman moved, it was seconded and

**RESOLVED:** That as public discussion would disclose exempt information, the following matters be considered in private.

**PART 2 - PRIVATE**

**DECISIONS TAKEN UNDER DELEGATED POWERS IN ACCORDANCE WITH PARAGRAPH 3, PART 3 OF THE CONSTITUTION**

**LA 16/111 APPLICATION FOR A PROBATIONARY PRIVATE HIRE DRIVER'S LICENCE - CASE NO 26/2016**

**(Reason: LGA 1972 Sch 12A Paragraph 1 – Information relating to an individual)**

Consideration was given to the report of the Director of Central Services and Monitoring Officer regarding an application for a Probationary Private Hire Driver's Licence following receipt of information from the Disclosure and Barring Service (DBS). The Panel was reminded that the Applicant had been convicted of an offence on 2 May 2011 under Common Law in respect of the perversion of the course of Public Justice and that a previous application for a Probationary Private Hire Driver's licence had been refused at a Hearing held on 6 April 2016.

The Panel listened carefully to the information provided by the Applicant's representative, had due regard to the report of the Director of Central Services and to the following:-

- (1) that Paragraph 1.5.4 of the Policy stated that Public Safety is paramount when processing a prospective candidate to ensure that the applicant is a 'Fit and Proper' person to hold a licence;
- (2) that Paragraph 5.7.3 of the Policy regarding 'Fit and Proper' requires that the Council consider each case on its merits;
- (3) that where an application for a licence has been refused (either a new application or a renewal), or revoked, a further application from the applicant/licence holder will not be considered for a period of two years from the date of refusal or revocation as the case may be (Paragraph 11.8.7);
- (4) with regard to Offences of Dishonesty, Paragraph 12.2.1 of the Policy stated that Drivers of hackney carriage and private hire vehicles are expected to be persons of trust; and
- (5) with regard to Offences of Dishonesty, Paragraph 12.2.2 of the Policy stated that members of the public entrust themselves to the care of the drivers.

The Panel found that the starting point for the Panel's consideration was the Licensing Policy currently in force and that that Policy ordinarily suggested that repeat applications within a period of two years should be refused. In relation to Offences of Dishonesty, the Policy required that greater weight be given to the circumstances of the offence and evidence of good character after a period of 4 years. Having heard the submission made at the Hearing the Panel was satisfied that the Applicant was a fit and proper person to hold a probationary licence and, therefore

**RESOLVED:** That the application for a Probationary Private Hire Driver's Licence be GRANTED on the basis that the Applicant was a fit and proper person to hold the licence.

The meeting ended at 2.32 pm  
having commenced at 1.49 pm

**TONBRIDGE AND MALLING BOROUGH COUNCIL**

**LICENSING AND APPEALS PANEL**

**Thursday, 15th December, 2016**

**Present:** Cllr Mrs J A Anderson (Chairman), Cllr H S Rogers and Cllr R V Roud  
Together with representatives of the Licensing Authority

**PART 1 - PUBLIC**

**LA 16/112 DECLARATIONS OF INTEREST**

There were no declarations of interest made in accordance with the Code of Conduct.

**LA 16/113 EXCLUSION OF PRESS AND PUBLIC**

The Chairman moved, it was seconded and

**RESOLVED:** That as public discussion would disclose exempt information, the following matters be considered in private.

**PART 2 - PRIVATE**

**DECISIONS TAKEN UNDER DELEGATED POWERS IN ACCORDANCE WITH PARAGRAPH 3, PART 3 OF THE CONSTITUTION**

**LA 16/114 APPLICATION FOR A PROBATIONARY PRIVATE HIRE DRIVER'S LICENCE - CASE NO 27/2016**

**(Reason: LGA 1972 Sch 12A Paragraph 1 – Information relating to an individual)**

Consideration was given to the report of the Director of Central Services and Monitoring Officer regarding an application for a Probationary Private Hire Driver's Licence following receipt of information from the Disclosure and Barring Service (DBS) that the Applicant had received a Conviction under S.6(1) of the Bail Act 1976 on 5 May 2016 for Failing to Surrender to Custody at Appointed Time on 6 April 2016 for which he had custodial sentence of two months.

The Panel listened carefully to the information provided by the Applicant regarding the reason why he had failed to surrender himself to custody and noted that he had not declared the conviction on the questionnaire which accompanied his application. The Panel had due regard to the report of the Director of Central Services and to the following:-

- (1) that Paragraph 1.5.4 of the Policy stated that Public Safety is paramount when processing a prospective candidate to ensure that the applicant is a 'Fit and Proper' person to hold a licence; and
- (2) that Paragraph 5.7.3 of the Policy regarding 'Fit and Proper' requires that the Council consider each case on its merits.

The Panel listened carefully to the Applicant's explanation of the circumstances surrounding the Conviction and stressed that failure to surrender to bail was an extremely serious matter. The Panel noted the extenuating circumstances put forward by the Applicant and took into account his long history as a taxi driver with no other convictions or cautions. The Panel, therefore

**RESOLVED:** That the Application be GRANTED a Probationary Private Hire Driver's Licence.

The meeting ended at 3.35 pm  
having commenced at 2.43 pm

**TONBRIDGE AND MALLING BOROUGH COUNCIL**

**LICENSING AND APPEALS PANEL**

**Thursday, 15th December, 2016**

**Present:** Cllr Mrs J A Anderson (Chairman), Cllr H S Rogers and Cllr R V Roud  
Together with representatives of the Licensing Authority

**PART 1 - PUBLIC**

**LA 16/115 DECLARATIONS OF INTEREST**

There were no declarations of interest made in accordance with the Code of Conduct.

**LA 16/116 EXCLUSION OF PRESS AND PUBLIC**

The Chairman moved, it was seconded and

**RESOLVED:** That as public discussion would disclose exempt information, the following matters be considered in private.

**PART 2 - PRIVATE**

**DECISIONS TAKEN UNDER DELEGATED POWERS IN ACCORDANCE WITH PARAGRAPH 3, PART 3 OF THE CONSTITUTION**

**LA 16/117 APPLICATION FOR A PROBATIONARY PRIVATE HIRE DRIVER'S LICENCE - CASE NO 28/2016**

**(Reason: LGA 1972 Sch 12A Paragraph 1 – Information relating to an individual)**

Consideration was given to the report of the Director of Central Services and Monitoring Officer regarding an application for a Probationary Private Hire Driver's Licence following receipt of information from the Disclosure and Barring Service (DBS) that the Applicant had been Convicted under the Fraud Act 2006 on 24 June 2014 for offences committed on 22 October 2010, 10 July 2012 and 23 July 2012 for which he had received a custodial sentence of 12 weeks.

The Panel listened carefully to the information provided by the Applicant and noted that he had declared the Conviction on the questionnaire which accompanied his application. The Panel was reminded that the Applicant had attended a Hearing Panel on 18 February 2015 where his

application for a Probationary Private Hire Driver's Licence had been refused.

The Panel had due regard to the report of the Director of Central Services and to the following:-

- (1) that Paragraph 1.5.4 of the Policy stated that Public Safety is paramount when processing a prospective candidate to ensure that the applicant is a 'Fit and Proper' person to hold a licence;
- (2) that Paragraph 5.7.3 of the Policy regarding 'Fit and Proper' requires that the Council consider each case on its merits;
- (3) that Paragraph 12.2.4 of the Policy regarding the relevance of previous convictions stated that an application would normally be refused where an applicant has a conviction for an offence of Fraud if the conviction is less than 4 years prior to the date of the application. 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;
- (4) with regard to Offences of Dishonesty, Paragraph 12.2.1 of the Policy stated that Drivers of hackney carriage and private hire vehicles are expected to be persons of trust; and
- (5) with regard to Offences of Dishonesty, Paragraph 12.2.2 of the Policy stated that members of the public entrust themselves to the care of the drivers.

The Panel listened carefully to the Applicant's submission and had regard to the fact that it was 22 months since the previous application had been refused. The Panel found that the Council's Policy with regard to offences involving dishonesty, and specifically Benefit Fraud, require a period of 4 years from the date of conviction before an application is likely to be considered favourably. The Panel also noted that, in relation to repeat applications, an application would not normally be entertained until a period of 2 years has elapsed. The Panel had particular regard to the fact that the Applicant was able to continue to work for his employer under a People Carrying Vehicle (PCV) Licence and that this involved contact with the public and handling fares. However, the Panel took a particularly dim view of offences which defrauded the Public Purse, especially when they were sufficiently serious to attract custodial sentences. In all these circumstances the Panel, therefore



**RESOLVED:** That the application for a Probationary Private Hire Driver's Licence be REFUSED on the basis that the Applicant was not a fit and proper person to hold the licence.

The meeting ended at 4.37 pm  
having commenced at 3.53 pm

**TONBRIDGE AND MALLING BOROUGH COUNCIL**

**LICENSING AND APPEALS PANEL**

**Thursday, 15th December, 2016**

**Present:** Cllr Mrs J A Anderson (Chairman), Cllr H S Rogers and  
Cllr R V Roud.

Together with representatives of the Licensing Authority

**PART 1 - PUBLIC**

**LA 16/118 DECLARATIONS OF INTEREST**

There were no declarations of interest made in accordance with the Code of Conduct.

**LA 16/119 EXCLUSION OF PRESS AND PUBLIC**

The Chairman moved, it was seconded and

**RESOLVED:** That as public discussion would disclose exempt information, the following matters be considered in private.

**PART 2 - PRIVATE**

**DECISIONS TAKEN UNDER DELEGATED POWERS IN  
ACCORDANCE WITH PARAGRAPH 3, PART 3 OF THE  
CONSTITUTION**

**LA 16/120 APPLICATION FOR A PROBATIONARY PRIVATE HIRE DRIVER'S  
LICENCE - CASE NO 23/2016**

**(Reason: LGA 1972 Sch 12A Paragraph 1 – Information relating to  
an individual)**

The Panel was asked to consider whether an application for a Probationary Private Hire Driver's Licence should be approved following receipt of information from the Driver and Vehicle Licence Agency (DVLA) and the Disclosure and Barring Service (DBS) that the Applicant had received a 14 day disqualification and fine following a Conviction on 20 October 2014 for being in charge of a motor vehicle while alcohol level above limit on 27 December 2013.

The Panel was advised that the Applicant had failed to arrive prior to the start of the meeting or to respond to any attempts to contact him.

The Hearing took place in the Driver's absence and the Panel had regard to the report of the Director of Central Services and Monitoring Officer and to the following:-

- (1) that Paragraph 1.5.4 of the Policy stated that Public Safety is paramount when processing a prospective candidate to ensure that the applicant is a 'Fit and Proper' person to hold a licence;
- (2) that Paragraph 5.7.3 of the Policy regarding 'Fit and Proper' requires that the Council consider each case on its merits;
- (3) with regard to Offences of Dishonesty, Paragraph 12.2.1 of the Policy stated that Drivers of hackney carriage and private hire vehicles are expected to be persons of trust; and
- (4) that Paragraph 12.11.1 states that 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.

The Panel had particular regard to the Policy regarding excess alcohol and that, in the absence of the Applicant, no circumstances had been put forward in writing to attempt to explain or mitigate the offence. The Panel, therefore

**RESOLVED:** That the application for a Probationary Private Hire Driver's Licence be REFUSED.

The meeting ended at 4.59 pm  
having commenced at 4.50 pm

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## TONBRIDGE & MALLING BOROUGH COUNCIL

### LICENSING & APPEALS COMMITTEE

14 March 2017

#### Report of the Director of Central Services and Monitoring Officer

#### Part 1- Public

#### Matters for Recommendation to Council

#### **1 SEX ESTABLISHMENTS AND SEXUAL ENTERTAINMENT VENUES - POLICY FOR 2017 - 2020**

#### **1.1 Background**

1.1.1 The current Policy on Licensing Sex Shops, Sex Cinemas and Sexual Entertainment Venues was published in 2013 and has a life span of three years.

1.1.2 Tonbridge & Malling Borough Council currently has one licensed Sex Shop called Vibez, trading in Aylesford. There are no sexual entertainment venues currently operating within the Borough, the one previous establishment (the Harp, East Peckham) having been refused a licence under the existing policy in 2013.

1.1.3 Since November 2005, the Licensing Act 2003 has required a wide range of regulated entertainment to be licensed by the Council acting as the Licensing Authority. This includes live and recorded music as well as dancing and dance performances.

1.1.4 Members will be familiar with the restrictions in the 2003 Act, which mean that any representation against a Premises licence and Club Premises Certificate can only be based on the four licensing objectives namely:

- The prevention of crime and disorder
- The prevention of public nuisance
- The protection of public safety
- The protection of children from harm

Whilst licences can be subject to review procedures, they otherwise continue in force for the life of the business concerned

1.1.5 Sex shops and sex cinemas, in contrast, are licensed under the Local Government (Miscellaneous Provisions) Act 1982. This regime gives the Licensing Authority a wider discretion in determining whether to grant or refuse licences (including the statutory grounds for refusal), a power to set a limit on the number of premises that may be suitable for a particular locality, greater flexibility

on applying licence conditions and the ability to accept representations from a wider scope of the community. Sex shop licences are only valid for a year at a time, meaning there is scope for regular review.

- 1.1.6 These concerns were addressed by amending Schedule 3 to the 1982 Act through Section 27 of the Policing and Crime Act 2009. A new class of licensed sex establishment – Sexual Entertainment Venues – was created which required lap dancing venues and similar premises to be licensed under the more flexible 1982 Act rather than under the Licensing Act 2003.
- 1.1.7 In 2011 Tonbridge and Malling Borough Council consulted local residents and businesses on whether the Council should adopt the new powers to regulate sexual entertainment venues contained in Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982.
- 1.1.8 The overwhelming view of respondents was that the Council should adopt the new provisions. Accordingly, on 23 February 2012 Council resolved to adopt the sexual entertainment licensing provisions contained in Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982. These adopted provisions came into effect on 1 June 2012.
- 1.1.9 The decision to adopt the new provision only related to relevant adult entertainment. Any other licensable activity at a venue such as alcohol sales and late night refreshment remains licensable under the Licensing Act 2003.
- 1.1.10 The provisions of Schedule 3 to the 1982 Act allow -
- Local people to oppose an application for a sexual entertainment venue if they have legitimate concerns that it would be inappropriate given the character of an area, for example, if the area was primarily a residential area. An objection cannot however be made on purely moral or religious grounds.
  - Local authorities to decide whether or not to set a limit on the number of sex establishments of a particular type in a locality, as well as the number of sex establishment generally. The limit for a particular locality may be set as nil, but it is however unlikely that a local authority could set the limit as nil for the whole of its area without running the risk of judicial review.

## **1.2 Development of the Statement of Licensing Policy**

- 1.2.1 The Tonbridge and Malling Borough Council's Statement of Licensing Policy was developed in close conjunction with the other local authorities in Kent. This was achieved via the mechanism of the Kent and Medway Regulatory Licensing Steering Group.

- 1.2.2 The current policy has been developed taking full account of the requirements of the legislation and guidance so as to minimise the prospect of future judicial review.
- 1.2.3 The aim of the joint working group was to promote consistency to the benefit of Licensees, potential licensees, businesses, residents and to regulatory agencies such as the police.
- 1.2.4 The draft policy is attached as **Appendix A** to this report. Members will note that the policy includes a Model Pool of Conditions (**Appendix B**) which, whilst not exhaustive, will, it is hoped, guide both applicants and the public regarding what would generally be expected from anyone seeking a sex establishment licence from this authority.
- 1.2.5 The policy provides that each application will be judged on its own merits but taking into account the various criteria laid out within the policy document. In this way each application will be considered as to whether it is suitable given the nature of the particular locality in question.

### **Consultation**

The proposed timetable for consultation in respect of the policy was:

- Licensing and Appeals Committee – 10<sup>th</sup> October 2016
  - Public Consultation – 14<sup>th</sup> October 2016 until 31 January 2017
  - Licensing and Appeals Committee 14<sup>th</sup> March 2017
  - Full Council – 11<sup>th</sup> April 2017
  - New policy comes into force – 15<sup>th</sup> April 2017
- 1.2.7 We received one return from the consultation from Kent Police for inclusion of Article 8 to be included under section 11.

### **1.3 Legal Implications**

- 1.3.1 There is no statutory requirement to have a licensing policy for sex establishments. However, it is considered best practice and also a modern, effective policy document will ensure that the trade and public alike will have a document that fully explains the elements of the regulatory process. This will include the principles to be applied when considering applications for sex establishments, the application process itself and the grounds for objection, refusal, the hearings procedure and the grounds for appeal.
- 1.3.2 Any criteria applicable to applications for sex establishments must meet the requirements of the Provision of Services Regulations 2009. It is considered that the draft policy complies with these regulations.

## 1.4 Financial and Value for Money Considerations

- 1.4.1 There are no statutory fees for sex establishments or sexual entertainment venues. The level of fee is therefore at the discretion of the Licensing Authority, subject of course to the general principle that the income generated should not exceed the costs of providing the service.
- 1.4.2 The current licence fee for a sexual entertainment venue is £2,000.

## 1.5 Risk Assessment

- 1.5.1 The introduction of a policy should provide a transparent and consistent basis for decision making. This in turn should reduce the risks of decisions being challenged in the Courts.

## 1.6 Equality Impact Assessment

- 1.6.1 The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no perceived impact on end users.

## 1.7 Recommendations

- 1.7.1 Members are **RECOMMENDED**:

That the draft Statement of consultation, attached as **Annex A**, be approved incorporating the changes as set out in **Annex C**.

Background papers:

contact: Anthony Garnett

Nil

Adrian Stanfield  
Director of Central Services and Monitoring Officer

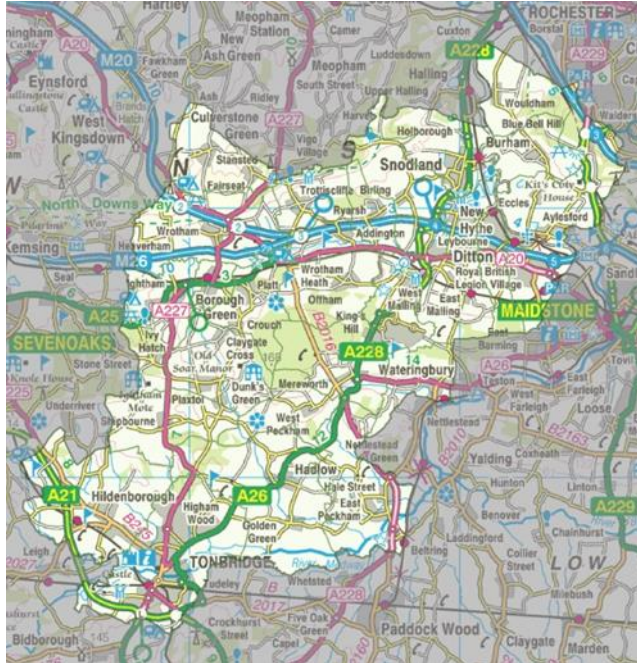


Draft

# Tonbridge & Malling Borough Council's Policy on Licensing Sex Shops, Sex Cinemas and Sexual Entertainment Venues

## 1. Introduction

- 1.1. Tonbridge and Malling Borough Council lies in the heart of Kent and is an area of variety and historical interest. The Council is made up of 54 borough councillors (members) representing the 24 wards in the borough. The Council area has a population of 112,400.



The borough of Tonbridge and Malling lies in the heart of Kent and is an area of variety and historical interest. The borough is largely rural with few large settlements; Tonbridge in the south being the largest and home to around 35,000 residents. The remainder of the borough is dotted with villages and smaller towns.

Industry and commerce are concentrated around Tonbridge, Aylesford, Ditton, Larkfield and Snodland. Mineral extraction has been carried out in the area for many years. Paper and packaging mills, distribution, general and light industry and many small businesses make up the industrial scene. The borough is a popular area for office location and high tech development, particularly at the Kings Hill business and residential community

## 2. Overview

- 2.1. Tonbridge and Malling Borough Council consulted local residents and businesses on whether the Council should adopt the new powers to regulate sexual entertainment venues contained in Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 ('the 1982 Act') between the 1 September 2011 and 14 October 2011. A full list of consultees can be supplied on request.
- 2.2. The overwhelming view expressed by respondents was that the Borough Council should adopt the new provisions. Accordingly, the sexual entertainment licensing provisions contained in the 1982 Act were adopted at Full Council on Thursday 23 February 2012. These provisions shall come into effect on 1 June 2012.
- 2.3. Premises for which a sexual entertainment venue licence is required or held (or for which the requirement has been waived under paragraph 7 of Schedule 3 to the

1982 Act do not also require a premises licence, club premises certificate or temporary event notice in order to provide relevant entertainment. This is because such entertainment is expressly excluded from the definition of regulated entertainment found in the Licensing Act 2003. However, if the premises also carries on other licensable activities (e.g. the sale of alcohol or the provision of regulated entertainment then this is not a provision of relevant entertainment), they will nevertheless continue to require a premises licence, club premises certificate or temporary events notice under the Licensing Act 2003 for those other activities, subject to any exceptions contained in that Act.

- 2.4. In practice this will mean that the vast majority of lap dancing clubs and similar venues will require both a sexual entertainment venue licence for the provision of relevant entertainment and a premises licence or club premises certificate for the sale of alcohol or provision of other types of regulated entertainment not covered by the definition of relevant entertainment.
- 2.5. Live music or the playing of recorded music which is integral to the provision of relevant entertainment, such as lap dancing, for which a sexual entertainment licence is required, is specifically excluded from the definition of regulated entertainment in the Licensing Act 2003. Therefore, a sexual entertainment venue will not require a premises licence or club premises certificate just because it plays recorded music for a performer to dance nor will providing entertainment facilities for the purposes of the provisions of relevant entertainment be regulated entertainment under the Licensing Act 2003.
- 2.6. The Council sees the licensing process as an integral part of its approach to achieving its corporate priorities which are set out below

During 2012/15 we will work with a range of partners and our local communities towards achieving the following key priorities:

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

### **3. Policy**

3.1. The purpose of this policy is to:

- Set out the expectations of Tonbridge and Malling Borough Council in relation to the licensing of sexual entertainment venues, sex shops and sex cinemas
- The process for making an application
- The process the Council will follow in considering and determining an application.
- Assist any persons making representations in respect of an application to make a properly directed and evidenced representation.

3.2. Notwithstanding this policy, each application will be assessed on its individual merit. Whilst this policy will set out the broad scope of the Council's expectations, it should not be seen as restricting or predetermining the outcome of any application or representation in respect of the licensing of any premises.

#### **4. Definitions**

4.1. For the purpose of this policy the following definitions (as set out in the 1982 Act) will apply:-

##### **4.2. Sex Shop**

Any premises, vehicle, vessel or stall used for a business which consists to a significant degree of selling, hiring, exchanging, lending, displaying or demonstrating sex articles (anything for use in connection with or for stimulating or encouraging sexual activity or acts of force or restraint which are associated with sexual activity) or other things intended for use in connection with, or for the purpose of stimulating or encouraging sexual activity or acts of force or restraint which are associated with sexual activity.

##### **4.3. Sex Cinema**

Any premises, vehicle, vessel or stall used to a significant degree for the exhibition of moving pictures, by whatever means produced which are concerned primarily with the portrayal of, or primarily deal with or relate to, or are intended to stimulate or encourage sexual activity, acts of force or restraint which are associated with sexual activity or are concerned primarily with the portrayal of or primarily deal with or relate to, genital organs or urinary or excretory functions but does not include a dwelling to which the public is not admitted.

##### **4.4. Sexual Entertainment Venue**

Any premises at which relevant entertainment is provided before a live audience for the financial gain of the organiser or the entertainer.

## **5. Relevant Entertainment**

- 5.1. Any live performance or any live display of nudity which is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience (whether by verbal or other means).
- 5.2. The following forms of entertainment will therefore fall within the definition of 'regulated entertainment',:-
- Lap Dancing
  - Pole Dancing
  - Table Dancing
  - Strip Shows
  - Peep Shows
  - Live Sex Shows
- 5.3. However, this list is not exhaustive and Tonbridge and Malling Borough Council will judge each case on its merits. Decisions will be based on the content of the entertainment provided and not the name given to it.

## **6. Exemptions from being a sexual entertainment venue**

- 6.1. The following are not sexual entertainment venues for the purposes of this policy:-
- (a) sex cinemas and sex shops
  - (b) premises at which the provision of relevant entertainment is such that, at the time in question and including any relevant entertainment which is being so provided at that time
    - (i) there have not been more than eleven occasions on which relevant entertainment has been provided which fall (wholly or partly) with the period of 12 months ending with that time
    - (ii) no such occasions has lasted for more than 24 hours and
    - (iii) no such occasion has begun within the period of one month beginning with the end of any previous occasion on which relevant entertainment has been so provided (whether or not that previous occasions falls within the 12 month period mentioned in subparagraph (i)).
- 6.2. Premises which fall under this exemption created for infrequent entertainment do not require a sexual entertainment licence but will instead need an appropriate authorisation under the Licensing Act 2003. For example, to cover the performance of dance.

- 6.3. Operators are encouraged to maintain written records of any relevant entertainment that falls within the exemption. This will enable the Licensing Authority to verify whether the venue falls within the permitted exemption.
- 6.4. Any records should contain information of the date, times of the event and those persons who have participated in the relevant entertainment, which includes performers, security, management and bar staff. If tickets are sold then details should be recorded of the number of tickets sold at each event.

## **7. Nudity**

- 7.1. Schedule 3 of the 1982 Act sets out the definition of a display of nudity:
- In the case of a woman, it means exposure of her nipples, pubic area, genitals or anus and
  - in the case of a man it means exposure of his pubic area, genitals or anus

## **8. Spontaneous Entertainment**

- 8.1. Where activities that would otherwise be considered to involve the provision of relevant entertainment take place, but are not provided for the financial gain of the organiser or entertainer, such as a spontaneous display of nudity or a lap dance by a customer or guest, the premises will not be considered a sexual entertainment venue by virtue of those circumstances alone. This is because the relevant entertainment must be provided for the financial gain of the organiser or entertainer. However, it should be noted that an organiser might be considered to have provided the entertainment where he has permitted the activity to take place, whether expressly or impliedly.

## **9. The Organiser**

- 9.1. Any person who is responsible for the organisation or management of the relevant entertainment at a premises at which relevant entertainment is provided. In most circumstances, this will refer to the manager of the premises, but could also refer to someone who is responsible for organising the relevant entertainment on behalf of the persons responsible for the management of the premises.
- 9.2. The organiser must be someone who is in a position of responsibility over the provision of the relevant entertainment and should not be interpreted to mean a member of staff who is merely employed to work during the provision of relevant entertainment. It is only necessary for one person to hold a sexual entertainment venue licence for premises, even if there is more than one person who is responsible for the organisation or management of the relevant entertainment or the premises.

## **10. Planning**

- 10.1. Applicants are encouraged to ensure that the proposed activity will constitute a lawful planning use and the hours sought do not exceed those authorised by any planning permission. Where the hours authorised by the relevant planning permission are different to the licensing hours for those premises, the applicant must observe the earlier closing time. Premises operating in breach of their planning permission would be liable to enforcement action under planning law.
- 10.2. Failure to obtain planning permission (where required) is not a ground for refusal of the grant of an application under the 1982 Act and such a failure to obtain planning permission will be dealt with as part of the planning process.
- 10.3. The Borough Council will not normally consider planning matters such as 'need' in determining a licence application as this is more appropriately dealt with by the planning process.

## **11. European Convention on Human Rights**

- 11.1. The Human Rights Act 1998 incorporates the European Convention on Human Rights (ECHR) and makes it unlawful for a local authority to act in a way which is incompatible with a convention right. The Council will have regard to the Human Rights Act when exercising its licensing functions, with particular reference to the following relevant provisions of the European Convention on Human Rights.

**Article 6** – in the determination of civil rights and obligations every person is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law

**Article 10** – freedom of expression

**Article 1 of the First Protocol** – every person is entitled to the peaceful enjoyment of his or her possessions

## **12. Locality, Character and Layout**

- 12.1. Paragraphs 12 (3) (c) and 12 (3) (d) of Schedule 3 allow appropriate authorities to refuse applications on grounds related to an assessment of the relevant locality. A licence can be refused if either, at the time the application is determined the number of sex establishments or sex establishments of a particular kind, in the relevant locality is equal to or exceeds the number that the authority considers appropriate for that locality; or that a sex establishment would be inappropriate having regard to the character of the relevant locality, the use to which any premises in the vicinity are put or to the layout, character or condition of the premises in respect of which the application is made.

12.2. Schedule 3 to the 1982 Act defines 'relevant locality' as follows:

- In relation to premises the locality where they are situated
- In relation to a vehicle, vessel or stall, any locality where it is desired to use it as a sex establishment.

12.3. Once the Borough Council has determined the relevant locality, it will seek to make an assessment of the 'character' of the relevant locality and how many, if any, sex establishments, or sex establishments of a particular kind, it considers appropriate for that relevant locality. The Council may consider a particular locality is suitable for a sex shop but is not suitable for a sexual entertainment venue or vice versa.

12.4. The Borough Council has determined not to set specific relevant localities in respect of each type of sex establishment, instead judging each application it receives on its own individual merits.

12.5. In licensing of sexual entertainment venues the Borough Council will consider the impact of such premises and their operation on the vicinity. This will include:

- The likely effects of any increased footfall or vehicular traffic
- Any advertising or displays of an erotic or pseudo-erotic nature
- The type of location (residential, commercial, industrial)
- The vicinity of establishments whose patrons are likely to be effected by the operation of the premises
- The proximity of residential premises, including any sheltered housing and accommodation for vulnerable people
- The proximity of educational establishments to the premises
- The proximity of places of worship to the premises
- Access routes to and from schools, play areas, nurseries, children's centres or similar premises in proximity to the premises
- The proximity to shopping centres
- The proximity to community facilities/halls and public buildings such as swimming pools, leisure centres, public parks, youth centres/clubs (this list is not exhaustive)
- The proximity to historic buildings and tourist attractions
- Localities where the cumulative impact of the venue, taken with other licensed premises or commercial interests, is likely to have an adverse effect on crime and disorder and public nuisance
- The nature and concerns of any objections received from residents or businesses
- Any evidence of complaints about noise and/or disturbance caused by the premises
- The proximity of other sex establishments



12.6. When considering an application for the grant, renewal, variation or transfer of a licence the Council will also take into account the following

- The type of activity to which the application relates
- The duration of the proposed licence
- The days and hours of operation of the activity
- The layout and condition of the premises
- The use to which other premises in the vicinity are put
- The levels of crime and disorder in the area.

12.7. Sex establishments should not be functionally visible to passers by on retail thoroughfares or pedestrian routes. In more sensitive locations applicants should consider whether it would be appropriate to locate such premises at basement level or locate entrances away from retail thoroughfares or busy pedestrian routes.

### **13. Waivers**

13.1. The Borough Council may waive the need for a sex entertainment venue licence under certain circumstances.

13.2. An applicant can apply for a waiver either as part of the application for a licence or separately. The Borough Council may grant a waiver if they consider that to require a licence would be unreasonable or inappropriate. . The waiver may last for such a period that the Borough Council think fit, but can be terminated by the Council at any time with 28 days notice.

13.3 The Borough Council will consider waiver applications on an individual basis.

### **14. Application Process**

14.1. The Borough Council may impose restrictions on the licence or to place conditions on the licence. Where such restrictions or conditions are applied, the Borough Council will ensure that they are necessary, reasonable and proportionate to achieve the objectives of any primary legislation, in particular the 1982 Act and any subsequent, relevant legislation.

14.2. The Borough Council will consider

- The locality, character and layout of the premises including access
- The times of operation
- The suitability of the applicant
- The cumulative impact of the premises when taken together with other licensed premises in the locality.
- The management procedure in place to ensure the premises is operated in a way conducive to the area.

The above list is not exclusive, and the Borough Council may consider other factors where relevant to the particular application

- 14.3. Applications for licences for sex shops, sex cinemas and sex entertainment venues must be made on the prescribed form and accompanied by
  - (i) the relevant fee;
  - (ii) A site plan of radius of  $\frac{1}{4}$  of a mile (scale 1:500) clearly showing the locality in which the proposed sexual entertainment venue will be situated. The plan should clearly identify the proposed sexual entertainment venue marking the site/premises boundary with a red line and define other types of businesses and residential properties around the site as listed at 12.5;
  - (iii) A plan of the premises (scale 1:100) showing the part(s) of the premises that it is proposed to licence as a sexual entertainment venue. All areas requiring to be licensed should be outlined in red on the plan. If a part of the premises is within a licensed premises under the Licensing Act 2003 which will have a dual purpose then the plan should show the site where facilities for the public are shared such as toilets and bar
- 14.4. The plan of the premises must show the position of all CCTV cameras. All such cameras must be approved by Kent Police and be operated in accordance with the CCTV code of practice.
- 14.5. Plans may be considered in other scales with prior agreement with the Borough Council.
- 14.6. Applicants must give public notice of the application by publishing an advertisement in a local newspaper that is circulated in the area of Tonbridge and Malling no later than 7 days after the date the application is made.
- 14.7. Applicants must display a notice of the application on or near the premises in a place where it can be conveniently read by members of the public. The notice must be displayed for a period of 21 days beginning with the date the application was made.
- 14.8. All notices should be in the form prescribed (**Appendix B**) and identify the premises or, if the application relates to a vehicle, vessel or stall, specify where it will be used as a sex establishment.
- 14.9. The applicant must serve the application on Chief Officer of Police at Tonbridge Station no later than 7 days after the date of application.

14.10. In determining an application the Borough Council shall have regard to all relevant considerations, including any comments made by:

- Police
- Fire Authority
- Planning and Building Control
- KCC Safeguarding Children Board
- UK Border Agency
- Environmental Health (Environmental Protection and Food and Safety)
- Councillors
- Interested Parties (local residents/businesses)

14.11. Officers from any of these authorities may inspect the premises to ensure that the required technical standards are met.

14.12. The Borough Council will not determine an application for the grant of a licence, unless, the applicant allows an authorised officer a reasonable opportunity to enter the proposed sex establishment to make such examination and enquiries as may be necessary to determine the suitability of the applicant and the premises.

## **15. Objections**

15.1. Any person can object to an application.

15.2. Objections cannot be based on purely moral grounds/values or religious grounds as the legislation specifically prohibits this. Any objections on this basis will be refused or disregarded if presented with other reasons for objection.

15.3. Objections to the application must be made in writing and be received by the Borough Council within 28 days of the application being made. The objection must state in general terms the grounds of the objection.

15.4. The general terms of any objection will be provided to the applicant prior to the determination of the application. However, the Council will not without the consent of the objector reveal his/ her name or address to the applicant.

## **16. Conditions**

16.1. The Borough Council may attach conditions to a licence. To assist applicants the Licensing Authority has formulated a pool of conditions (**appendix A**) in respect of each type of licensed premises. However this list is not exhaustive and is merely to give an indication of what may be considered in respect of any individual application.

- 16.2. Some of the conditions will be placed on the particular type of establishment as mandatory conditions and others may be applied only where a perceived necessity exists and in a manner that is both proportionate and reasonable to promote a safe and well managed venue. Each case will be dealt with on its individual merits.
- 16.3. Whilst conditions or restrictions may be imposed in relation to any matter (other than any matter in relation to which requirements or prohibitions are or could be imposed by or under the Regulatory Reform (Fire Safety) Order 2005) it is likely that the conditions or restrictions will be attached in respect of the following areas:
- Hours of opening and closing
  - Visibility of the interior of the premises
  - Displays or advertisements
  - Any change to the type of premises
  - Minimum distance between audience and performers
  - The control of access to changing room facilities
  - The control of private viewings

## **17. Hearings**

- 17.1. Under paragraph 10 (19) of Schedule 3, before refusing an application, renewal or application to transfer a licence all applicants will be given the opportunity to appear before and be heard by the Licensing & Appeals Panel that is responsible for determining the application.
- 17.2. Whilst Schedule 3 does not make explicit provision for objectors to be heard, the Council believes it right to offer an oral hearing to objectors. This does, however remain within their discretionary powers. Although a local authority is under a duty to consider any objection made within 28 days of the application, it has discretion to hear later objections provided the applicant is given the opportunity to deal with those objections.
- 17.3. Persons making written objections will also be informed of the date and time of the Licensing & Appeals Panel hearing where they will be invited to address the committee and ask questions relating to the application.
- 17.4. All objectors and applicants are reminded that they can if they wish be legally represented at their own expense at the hearing. Alternatively they may if they wish ask a Councillor to represent them.
- 17.5. All parties may use witnesses and supporting documentation however, copies of documents and details of witnesses must be submitted to the Borough Council for

consideration prior to the hearing and in exceptional circumstances with approval of all parties at the hearing.

- 17.6. The Licensing & Appeals Panel will consider all the evidence presented to it during the hearing and members may ask questions of officers, applicant and objectors. After the evidence has been presented all parties will be asked to leave to allow for the Licensing Sub-Committee to come to a decision on the application.
- 17.7. When a decision is reached the Licensing & Appeals Panel will inform the applicant and relevant parties of their decision and the reasons for coming to that particular decision.
- 17.8. The decision of the Licensing & Appeals Panel will be confirmed, in writing, to the parties within 5 working days of the meeting at which the application was considered giving reasons for the decision.

## **18. Refusal of a Licence**

- 18.1. Paragraph 12 of Schedule 3 sets out the grounds for refusing an application for the grant, renewal or transfer of a licence. A licence **must not** be granted:
  - To a person under the age of 18
  - To a person who is for the time being disqualified due to the person having had a previous licence revoked in the area of the appropriate authority within the last 12 months
  - To a person other than a body corporate who is not resident in an European Economic Area (EEA) State or was not so resident throughout the period of six months immediately preceding the date when the application was made or
  - To a body corporate which is not incorporated in an EEA State or
  - To a person who has within a period of 12 months immediately preceding the date when the application was made, been refused the grant or renewal of a licence for the premises, vehicle, vessel or stall in respect of which the application is made, unless the refusal has been reversed on appeal.
- 18.2. A licence may be refused where
  - The applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason
  - If the licence were to be granted, renewed or transferred the business to which it relates would be managed by or carried on for the benefit of a person, other than the applicant, who would be refused the grant, renewal or transfer of such a licence if he made the application himself

- The number of sex establishments or of sex establishments of a particular kind, in the relevant locality at the time the application is determined is or exceeds the number which the authority considers is appropriate for that locality
- That the grant or renewal of the licence would be inappropriate, having regard to the character of the relevant locality or to the use to which any premises in the vicinity are put or to the layout, character of the premises, vehicle, vessel or stall in respect of which the application is made.

18.3. In making any determination to refuse an application, renewal or transfer the local authority will give consideration to:

**a) Unsuitability of applicant**

In determining the suitability or otherwise of an applicant the local authority may consider

- previous experience of the applicant
- any evidence of the operation of any existing/previous licence held by the applicant, including any licence held in any other local authority area
- any report about the applicant and management of the premises received from objectors
- any previous convictions and in particular those that have been imposed in respect of offences involving violence, dishonesty, or a breach of the requirements of the legislation covering the type of establishment in respect of which the application is made.

**b) Business carried out on behalf of a person who would be refused**

The Borough Council takes a serious view of any application that seeks to subvert the underlying principals of the Act. Where it is considered that the applicant is effectively operating the business on behalf of a person who would, for whatever reason be refused or disqualified from the grant of a licence due to the mandatory or discretionary grounds for refusal there will be a presumption towards refusal unless overwhelming reasons are accepted for the contrary decision to be made.

**c) The application exceeds the limit set on the number of the specific type sex establishment in an area**

Tonbridge and Malling Borough Council has not set a limit on the number of establishments of a specific type that will be permitted within any particular locality. In deciding whether to allow the application the authority will have consideration to:

- Any nuisance associated with the premises or the activities undertaken thereon

- The possibility of children or other vulnerable persons being harmed or exploited by the provision of sexual entertainment or the operation of sex shops or sex cinemas
- The potential of the activities associated with the operation of the premises being a source of crime and disorder, being associated with crime or being used to support crime.
- Any other reason including the existence of a police caution, representations from the police or by other enforcement agencies in relation to crime and disorder.

This list is not exhaustive

**d) The grant of the licence would be inappropriate**

In deciding whether the grant of a licence is appropriate the Borough Council will consider the type of area in which it is intended to site the premises and the hours during which it is intended to operate. The Council is also likely to consider:

- The proximity to other premises/ establishments (please see list at 12.5)
- Whether the area is predominantly residential rather than commercial in nature and premises may cause disturbance to local community.
- Whether management systems are suitable to ensure the safety of performers, customers and staff.

Again, this list is not exhaustive

**19. Duration of Licences**

19.1. Licences for sex establishments will be granted for up to one year.

**20. Renewal of Licence**

It will be the applicant's responsibility to apply for the renewal of the licence in good time (not less than 6 weeks) prior to the expiry of the existing licence. In the event that no application is made prior to the expiry of the existing licence the licence shall cease to remain in force, and a new application will be required.

## **21. Appeals**

21.1. Section 27 of Schedule 3 to the 1982 Act permits appeals against the decision of the Council in relation to sexual entertainment venues. Appeals will be heard in the first instance by the Magistrates Court. An appeal must be made to the Magistrates Court within 21 days of notification of the decision of the Licensing & Appeals Panel .

21.2. An appeal can be made in the following circumstances:-

- By an applicant for the grant, renewal or transfer of a licence whose application is refused
- By an applicant for the variation of terms, conditions or restrictions on or subject to which the licence is held whose application is refused
- The holder of any such licence who is aggrieved by any term, condition or restriction on or subject to which the licence is held
- The holder of any such licence whose licence is revoked

21.3. There is no right of appeal for objectors.

21.4. There is no right of appeal against refusal on the ground that there are sufficient sex establishments in the locality or that to grant would be inappropriate having regard to the character of the locality, use of premises in the vicinity and the layout, character, condition and location of the premises.



## TONBRIDGE AND MALLING BOROUGH COUNCIL

### STANDARD TERMS, CONDITIONS & RESTRICTIONS RELATING TO SEX ESTABLISHMENTS

These terms, conditions and restrictions apply to the licences for sex establishments granted, renewed or transferred by the Council under the provisions of Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982.

#### **Definitions**

Save where the context otherwise requires, the following expressions shall have the following meanings:-

- i) "Sex Establishments", "Sex Cinema", "Sex Shop", "Sex Article", "Sexual Entertainment Venues" and "relevant entertainment and nudity" shall have the meanings ascribed to them in the Third Schedule of the Local Government (Miscellaneous Provisions) 1982 as amended.
- ii) "Premises" means a building or part of a building and any forecourt, yard or place of storage used in connection with a building or part of building, which is subject of a licence for a sex establishment granted under the Third Schedule.
- iii) "Approval of the Council" or "Consent of the Council" means the approval or consent of the Council in writing.
- iv) "Approved" means approved by the Council in writing.
- v) "The Council" means the Tonbridge and Malling Borough Council.

#### **General**

The following terms, conditions and restrictions are applicable to all sex establishment licences. In the event of a conflict between these and any special conditions contained in a licence relating to a sex establishment the special condition shall apply.

The grant of a licence for a sex establishment shall not be deemed to convey any approval or consent which may be required under any other enactment by law or regulation other than the Third Schedule to the Local Government (Miscellaneous Provisions) Act 1982 as amended.

## **Sex Shops**

### **Times of Opening**

#### **Condition 1**

Except with the previous consent of the Council the premises shall not open to the public before 9.00am and shall not be kept open after 6.00pm

Except with the previous consent of the Council, the sex establishment shall not open on Sundays or any other Bank Holidays or any Public Holidays.

A notice displaying the times when the premises are open or closed shall be displayed on the entrance to the premises in a form and manner approved by the Council.

### **Conduct and Management of Premises**

#### **Condition 2**

Where the Licensee is a body corporate or an unincorporated body, any change of director, company secretary or other person responsible for the management of the body is to be notified in writing to the Council within 14 days of such change and such written details as the Council may require in respect of any new director, secretary or manager, are to be furnished within 14 days of a request in writing from the Council.

#### **Condition 3**

The Licensee or some responsible person nominated by him in writing for the purpose of managing a sex establishment in his absence and whom details (including photographs) have been supplied to and approved in writing by the Council, shall be in charge of and upon the premises during the whole time they are open to the public.

#### **Condition 4**

The holder of the licence shall keep exhibited in a suitable place within the shop premises, so that it can be easily seen by premises users, a copy of the licence and any conditions and regulations made and they shall be readily available for inspection by any of the following officers:-

- a) Duly authorised officer of the Tonbridge and Malling Borough Council
- b) Police Officer, and
- c) Officer of the Fire Authority

#### Condition 5

The name of the person responsible for the management of the sex establishment being either the Licensee or a manager approved by the Council, shall be prominently displayed within the sex establishment throughout the period during which he is responsible for its conduct.

#### Condition 6

The Licensee shall retain control over all portions of the premises and shall not let, licence or part with possession of any part of the premises.

#### Condition 7

The Licensee shall maintain good order in the premises at all times and shall ensure that persons entering or leaving the licensed premises conduct themselves in an orderly manner and do not in any way cause annoyance to residents and persons passing by.

#### Condition 8

No person under the age of 18 shall be permitted entry to the premises or be employed in the business of sex establishments.

#### Condition 9

The Licensee shall ensure that the public are not admitted to any part or parts of the premises other than those which have been approved by the Council.

#### Condition 10

The Licensee shall ensure that no part of the premises shall be used by prostitutes (Male or Female) for soliciting or for any immoral purpose.

#### Condition 11

Neither the Licensee nor any employee or other person shall seek to obtain custom for the sex establishment by means of the personal solicitation outside or in the vicinity of the premises.

#### Condition 12

The Licensee shall ensure that during the hours the sex establishment is open for business, every employee wears an identifying badge, of a type approved by the Council, indicating his name and that he is an employee.

#### Condition 13

No refreshment of any kind shall be provided nor any consumed on the licensed premises other than for any bona fide staff in a part of the premises not open to the public.

#### **Use of the Premises**

#### Condition 14

The sex shop shall be conducted primarily for the purpose of the sale of goods for retail and change of use of any portion of the premises from that licensed by the Council, shall not be made until the consent of the Council has been obtained thereto.

#### Condition 15

No change from a sex cinema or sexual entertainment venue to a sex shop or from a sex shop to a sex cinema or sexual entertainment venue shall be effected without the consent of the Council and neither sex articles nor other things intended for use in connection with, or for the purpose of stimulating or encouraging sexual activity or acts of force or restraint which are associated with sexual activity shall be sold, hired, exchanged, loaned or demonstrated in a sex cinema or sexual entertainment venue.

#### **Goods available in sex establishments**

#### Condition 16

All sex articles and other things displayed for sale, hire, exchange or loan within the sex shop, shall be clearly marked to be shown to the persons who are inside the sex shop the respective charge being charged.

#### Condition 17

All printed matter for sale, hire, exchange or loan shall be available for inspection prior to purchase, and a notice to this effect is to be prominently displayed within the sex establishment.

#### Condition 18

No film or video shall be exhibited, sold or supplied unless it has been passed by the British Board of Film Classification or such other authority performing a similar scrutinising function as may be notified to the licensee by the Council and bears a certificate to that effect and is a reproduction authorised by the owner of the copyright of the film or video so certified.

- a) The screen of any equipment used should be no more than 12 inches and placed in such a position so as not to be visible to the public outside the premises.
- b) The screen shall be placed in such a position approved by the Council.
- c) Only videos of clips of other videos for advertising purposes shall be shown and no individual clip shall be shown for longer than three minutes.
- d) No film or video will be shown in its entirety.
- e) Films will not be shown at the customer's request.
- f) All trailers shown are to be approved by the British Board of Film Classification
- g) A warning notice will be placed on the screen stating "For staff use only" or "No customers allowed to operate".

### **External Appearances**

#### Condition 19

No advertisement, words, letter, model, sign, placard, board, notice, device, representation, drawing, writing or any other matter or thing (whether illuminated or not) shall be exhibited so as to be visible from the outside of the premises except:- (i) Any notice of a size and in the form approved by the Council which is required to be displayed so as to be visible from outside the premises by law, or by any condition of a licence by a Council.

Such display, advertisement, word, letter, model, sign, placard, notice, device, representation, drawing, writing or any matter or thing as shall have been approved by the Council.

#### Condition 20

A prominent clear notice shall be displayed at each entrance to the premises advising customers that no person under 18 will be admitted and they may be asked to produce evidence of their age.

Suggested notice 'PERSONS UNDER 18 CANNOT BE ADMITTED TO THESE PREMISES'

Condition 21

The entrance doors to the premises shall be obscured, screened or arranged so as to effectively prevent the interior of the premises being seen by passers by.

The obscuration, screening or other arrangements shall be to the satisfaction of and approved by the Council.

Condition 22

- (a) The windows of the licensed premises fronting the pavement shall not be as obscured other than with the consent of the Council, but shall have suspended behind them, in a position and attitude approved by the Council, such opaque blinds or screen or such other arrangements as approved by the Council.
- (b) This condition shall not be construed as lessening any obligation of the Licensee under Licence Condition 21.
- (c) Any such special precautions as may be necessary shall be taken to maintain the screening of the shop window during any cleaning process.

**State, Condition and Layout of the Premises**

Condition 23

The premises shall be maintained in good repair and condition throughout, including the front fascia of the shop and entrance to the satisfaction of the Council.

Condition 24

Lighting in all parts of the premises shall be to a level approved by the Council and shall be in operation continuously during the hours when the sex establishment is open to the public.

Condition 25

The number, size and position of all doors or openings provided for the purpose of the ingress and egress of the public shall be approved by the Council and shall comply with the following requirements:-

- (i) All such doors or openings approved by the Council shall be clearly indicated on the inside by the word "Exit" or "Fire Exit".
- (ii) Doors and openings that lead to parts of the premises to which the public are not permitted to have access, shall have notices placed over them marked "Private – no access to the public".
- (iii) Save in the case of emergency no access shall be permitted through the premises adjoining or adjacent.

#### Condition 26

The external door/doors to the sex establishment shall be fitted with a device to provide for their automatic closure and such device shall be maintained in good working order.

#### Condition 27

Alterations or additions either internal or external, whether permanent or temporary to the structure, lighting or layout of the premises, shall be made except with the prior approval of the Council.

#### Condition 28

All parts of the premises shall be kept in a clean and wholesome condition to the complete satisfaction of the Council.

### **Safety**

#### Condition 29

The Licensee shall take all reasonable precautions for the safety of the public and employees.

#### Condition 31

The Council reserves the right after grant, renewal or transfer of this licence at any time to dispense with or modify or relax any of these terms, conditions and restrictions and to make such additional terms, conditions and restrictions as they may deem requisite to meet the circumstances of any particular case.

### Condition 32

The licence may be revoked by the Council if at any time the holder is convicted of any offence of using the licensed premises, or other premises for which a similar licence has been granted other than in accordance with the terms, conditions or restrictions of the licence or is convicted of any offence under any enactment defined in Paragraph 1 of Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982.

## **Sex Cinemas**

### **Film Categories**

#### Condition 1

The categories U, PG, 12, 15, 18 and restricted 18 have the following effect:

- U—Universal - suitable for all
- PG — Parental Guidance — some scenes may be unsuitable for young children
- 12 — Passed only for persons of 12 years and over
- 15 — Passed only for persons of 15 years and over
- 18 — Passed only for persons of 18 years and over
- Restricted 18 - Passed only for persons of 18 or over who are members (or their guests) of a properly constituted club.

### **Unclassified Films**

#### Condition 2

The licensee must notify the Council in writing no later than twenty-eight days prior to exhibiting any other film that has not been classified as specified in the film categories. Such a film may only be exhibited if the Council's gives written consent prior to the event and must comply in accordance with the terms of any such consent given.

### **Restricted Films**

#### Condition 3

Films restricted 18 (R18) may be shown at the premises only with the Council's prior written consent and in accordance with the terms of any such consent.

### **Persons Under 18**

#### Condition 4



No person appearing to be under the age of 18 shall be admitted to any part of the programme and the licensee shall display in a conspicuous position at each entrance to the premises a notice in clear letters in the following terms:

**PERSONS UNDER 18 CANNOT BE ADMITTED TO THIS CINEMA FOR ANY PART OF THE PROGRAMME**

**Condition 5**

No persons under 18 years of age shall be employed in any capacity at the premises in an area operating as sex cinema club.

**Advertising**

**Condition 6**

No advertisement displayed at the premises where a film is to be exhibited shall depict any scene or incident from a film that has been classified by the British Board of Film Classification, Board of Film Censors or approved for exhibition by the Licensing Authority.

**Condition 7**

The licensee shall display in a conspicuous position, to the satisfaction of the Council at each entrance to the premises, during the whole time the public are admitted to the premises and so as to be easily seen and read by the public, a timetable of the films on exhibition.

**Condition 8**

When the programme includes a film restricted 18, the licensee shall display in a conspicuous position at each entrance to the premises a notice in clear letters in the following terms:

**CINEMA CLUB — MEMBERS AND GUESTS ONLY. PERSONS UNDER 18 CANNOT BE ADMITTED TO THIS CINEMA FOR ANY PART OF THE PROGRAMME.**

**Condition 9**

The entrance doors to the premises shall be obscured, screened or arranged so as to effectively prevent the interior of the premises being seen by passers by.

The obscuration, screening or other arrangements shall be to the satisfaction of and approved by the Council.

## **Restricted 18**

### Condition 10

A register of all members and all visitors books of their guests shall be available for immediate inspection by authorised officer of the Council during any performance or at any other reasonable time.

### Condition 11

Tickets shall in no circumstances be sold to persons other than to members.

## **Membership**

### Condition 12

The club rules must be submitted to the Council 14 days before the club commences operation and notice of all rule changes shall be given to the Council within 14 days of the change.

### Condition 13

Membership shall be open to persons of both sexes of not less than 18 years of age

### Condition 14

Applications for membership, including both name and address, shall be in writing, signed by the applicant and if deemed necessary such applicant shall provide satisfactory references and proof of age.

### Condition 15

No persons shall be admitted to membership until the expiration of at least 24 hours after such written application has been approved by the management of the club.

### Condition 16

New members shall be supplied with a personal copy of the club rules before being admitted to membership and be given a copy of any rule changes within 14 days of the change.

### Condition 17

An annual subscription shall be fixed for the club and shall run for 12 months from the date of registration. Membership may be renewed annually at the subscription for the time being in force, but the management may refuse to renew any membership without assigning reason for such refusal.

Condition 18

Members shall be entitled on any day to bring no more than one guest to accompany the member, and the name of the guest shall be entered in the visitors book and counter signed by the member.

Condition 19

Tickets shall be sold only to members on the production of a membership card, and members shall if required sign and acknowledgement for the ticket or tickets issued.

Condition 20

Membership cards shall be personal to the member and carry a photograph of the holder.

Condition 21

Neither membership tickets nor guest tickets shall be transferable.

Condition 22

Guests may be asked for proof of identity, or of age, or any particulars of any guest shall be produced by any member of guest if demanded by the management.

Condition 23

Members shall undertake to behave in a proper and orderly manner. Any member or guest acting in a manner which is offensive, or a nuisance or annoyance to others may be refused admission or expelled from the premises. A member may also be deprived of membership.

**Sale of Sex Articles**

Condition 24

Neither sex articles nor other things intended for use in connection with, or for the purpose of stimulating or encouraging sexual activity or acts of force or restraint

which are associated with sexual activity shall be displayed, sold, hired, exchanged, loaned or demonstrated in a sex cinema.

### **Display of Tariff and Charges**

#### Condition 25

There shall be prominently and legibly displayed a comprehensive tariff of all charges and prices which shall be illuminated and placed in such a position that it can easily and conveniently be read by persons before entering the premises. No employee shall stand in such a position as to obscure the notice.

### **Conduct and Management of Premises**

#### Condition 26

The name of the person responsible for the management of the sex establishment being either the Licensee or a manager approved by the Council, shall be prominently displayed within the sex establishment throughout the period during which he is responsible for its conduct.

#### Condition 27

A notice showing the name of the person responsible for the management of the sex cinema on that day to be prominently displayed within the sex cinema throughout the period during which he is responsible for its conduct.

#### Condition 28

The Licensee shall ensure that no part of the premises shall be used by prostitutes (Male or Female) for soliciting or for any immoral purpose.

#### Condition 29

Neither the Licensee nor any employee or other person shall seek to obtain custom for the sex establishment by means of the personal solicitation outside or in the vicinity of the premises.

#### Condition 30

The Licensee shall ensure that during the hours the sex establishment is open for business, every employee wears an identifying badge, of a type approved by the Council, indicating his name and that he is an employee.

#### Condition 31

The Licensee or some responsible person nominated by him in writing for the purpose of managing a sex establishment in his absence and whom details (including photographs) have been supplied to and approved in writing by the Council, shall be in charge of and upon the premises during the whole time they are open to the public.

#### Condition 32

All parts of the premises shall be kept in a clean and wholesome condition to the complete satisfaction of the Council.

#### **Internal access to cinema**

#### Condition 33

Windows and openings within the premises where films are shown should have blinds of a type and size that covers windows and openings which render the interior of the cinema where films are being shown invisible to passers by and/or other areas within the building that are open to the public for other activities.

#### Condition 34

The licensee shall ensure that no noise shall emanate from the cinema that can be heard from within another area of the building or from outside.

#### **Security**

#### Condition 35

A member of staff to remain in the vicinity of the entrance to the cinema to prevent under 18's or non-members from illegal entry.

#### **Use of Premises**

#### Condition 36

No change from a sex shop or sexual entertainment venue to a sex cinema or from a sex cinema to a sex shop or sexual entertainment venue shall be effected without the consent of the Council.

#### **Safety**

#### Condition 37

The Licensee shall take all reasonable precautions for the safety of the public and employees.

## **Sexual Entertainment Venue**

### **Times of Opening**

#### **Condition 1**

The premises shall not open unless otherwise permitted:

[TIMES WILL BE SPECIFIED FOR EACH LICENCE]

### **Conduct and Management of Premises**

#### **Condition 2**

The name of the person responsible for the management of the sex establishment being either the Licensee or a manager approved by the Council, shall be prominently displayed within the sex establishment throughout the period during which he is responsible for its conduct.

#### **Condition 3**

The licensee or the responsible person shall maintain a daily register to be kept on the premises and produced to an authorised officer on request. The register to be completed each day within 30 minutes of the Sex Entertainment Venue opening for business and will record the name and contact details of any person who is to be responsible for managing the Sex Entertainment Venue in the absence of the licensee and details of all staff employed at the premises including performers.

#### **Condition 4**

A notice showing the name of the person responsible for the management of the sex entertainment venue on that day to be prominently displayed within the sex establishment throughout the period during which he is responsible for its conduct.

#### **Condition 5**

Where the licensee is a body corporate or an unincorporated body any change of director, company secretary or other person responsible for the management of the body is to be notified in writing to the Council within 14 days of such change.

#### **Condition 6**

The licensee shall ensure that no part of the building or its boundary is used by prostitutes (male or female) for the purposes of soliciting or any other immoral

purposes. Neither the licensee nor any employee or other person shall seek to obtain custom by means of personal solicitation outside or in the vicinity of the premises.

#### Condition 7

The licensee shall ensure that the public are not admitted to any part or parts of the premises other than those that have been approved by the Council.

#### Condition 8

Licensee shall maintain good order on the premises and in particular shall ensure that no

- lewd conduct
- indecent behaviour
- unlawful possession and/or supply of controlled drugs
- conduct likely to cause a breach of the peace on the premises
- offers of any sexual or indecent service for reward
- any acts of violence against person or property and/or the attempt or threat of such acts

takes place on the premises or in its immediate vicinity

#### Condition 9

A management operation manual detailing all aspects of procedure when the premises is operating relevant entertainment shall be produced and approved by the Licensing Authority. This document shall be on going and under constant review.

#### Condition 10

All members of staff (except performers) shall be easily identifiable. If required by the Council or Kent Police in writing the licensee shall ensure that during the hours the premises are open for relevant entertainment staff will wear a badge of a type/format approved by the Council indicating their name and that they are an employee or person working in the premises.

#### **Age Restriction**

#### Condition 11

No person under the age of 18 shall be admitted to the premises or employed in the business of the sex establishment.

#### Condition 12

A prominent clear notice shall be displayed at each entrance to the premises advising customers that no person under 18 will be admitted and they may be asked to produce evidence of their age.

PERSONS UNDER 18 CANNOT BE ADMITTED TO THESE PREMISES

#### **Advertising**

#### Condition 13

No display, advertisement, word, letter, model, sign, light, placard, board, notice, device, representation, drawing, writing or any matter or thing (where illuminated or not) shall be exhibited so as to be visible from outside the premises without approval by the Council.

#### Condition 14

The licence holder shall not display outside the premises, or on any advertising material, photographs or other images that indicate and suggest striptease or similar dancing takes place on the premises and which may be offensive.

#### Condition 15

The premises should not advertise by means of cruising vehicles or use of any other form of solicitation to invite people into the premises.

#### **External and Internal access to an area holding relevant entertainment**

#### Condition 16

The entrances to the premises shall be of a material or covered with a material that will render the interior of the premises invisible to passers by.

#### Condition 17

Windows and openings within the premises other than entrances will have curtains / blinds of a type and size that covers windows and openings which render the interior of the premises where relevant entertainment is taking place invisible to passers by and/or other areas within the building that are open to the public for other activities.

#### Condition 18



Windows will remain closed whilst the premises or part of that premises is being used for relevant entertainment.

### **Layout of the premises**

#### Condition 19

No fastening of any description shall be fitted upon any booth or cubicle within the premises.

#### Condition 20

All dance booths or cubicles are to be equipped with a panic alarm for safety.

#### Condition 21

Any changes to layout of the premises must be informed to the licensing authority in writing submitting plans. Alteration must not take place without prior written consent by the Licensing Authority

#### Condition 22

The licensee shall ensure that noise from the premises or vibration be transmitted through the structure of the premises does not give rise to a nuisance to the occupiers of premises in the vicinity of the venue.

#### Condition 23

The external doors to the premises shall be fitted with a device to provide for their automatic closure and such devices shall be maintained in good working order.

#### Condition 24

Doors and openings which lead to parts of the premises to which the public are not permitted to have access shall have notices placed over them marked 'private' and remain closed other than for the purposes of the ingress and egress of management, staff and performers.

### **Entertainers/Performers**

#### Condition 25

An appropriate room shall be set aside to provide a changing and rest area for entertainers. Arrangements shall be made to ensure that there is restricted public access to this room which shall be maintained at all times whilst the licensable

activities are taking place and until such time as all performers using the dressing room have finished.

Condition 26

At all times during the performance, performers shall have direct access to a dressing room without passing through or in close proximity to the audience.

Condition 27

On leaving the premises performers, who wish to be, shall be escorted by a staff member to their vehicle or other safe location

Condition 28

Performers shall be aged not less than 18 years old.

Condition 29

Only the performers shall provide the entertainment, no audience participation shall be permitted.

Condition 30

No performance shall include a sex act with any other performer, persons in the audience or with the use of any object or animal.

Condition 31

In the event of the relevant entertainment being performed for private viewing, the patron shall be informed of the duration and price of the relevant entertainment and the details shall be specified in a clearly visible notice in each area designed for private relevant entertainment.

Condition 32

Any person who can be observed from the outside of the premises must be properly and decently dressed. Scantily clad individuals shall not exhibit in the entranceway or in an area of the premises open to the public that is not designated area for relevant entertainment.

Condition 33

All performers shall be aware of the management operation that will include a written policy on the conduct of performers.

Condition 34

Photography or videoing of performances should not be allowed.

Condition 35

There shall be routine checking of employment records and evidence that all prospective staff and performers have the right to work in the UK.

Condition 36

Performers should not be permitted to arrange contacts or liaisons, exchange telephone numbers or other means of making contact while on the premises  
Staffing

Condition 37

During any lap dancing performance, or private dance, performers may not:

- Touch customers in any way
- Performer must not be within 30cms (12”) from any part of a patron
- Climb onto furniture provided for patrons
- Simulate sex acts
- Use sex articles

**Sale of Goods**

Condition 38

Neither sex articles nor other things intended for use in connection with, or for the purpose of stimulating or encouraging sexual activity or acts of force or restraint which are associated with sexual activity shall be displayed, sold, hired, exchanged, loaned or demonstrated in a Sex Entertainment Venue.

**Display of Tariff and Charges**

Condition 39

There shall be prominently and legibly displayed a comprehensive tariff of all charges and prices which shall be illuminated and placed in such a position that it can easily and conveniently be read by persons before entering the premises. No employee shall stand in such a position as to obscure the notice.

Condition 40

Where a charge is to be made for the company of a hostess or other companion this shall be identified on the tariff of charges to the satisfaction of the Council.

Condition 41

No order shall be accepted unless the customer has been provided with a copy of the said tariff and has been given sufficient time and opportunity to read it.

Condition 42

No charge shall be made to the customer for any drink provided for the hostess or companion unless that customer has specifically ordered it having first been made aware of the cost.

**Use of Premises**

Condition 43

No change from a sex shop or sexual entertainment venue to a sex cinema or from a sex cinema to a sex shop or sexual entertainment venue shall be effected without the consent of the Council.

## **Pool of Possible Additional Conditions**

### **Age Restriction**

#### **Condition a**

All members of staff at the premises shall seek credible photographic proof of age evidence from any person who appears to be under the age of 25 years and who is seeking access to the premises. Such credible evidence, which shall include a photograph of the customer, will either be a passport, photographic driving licence, or proof of age card carrying a 'PASS' logo.

### **Security**

#### **Condition b**

Door supervisors, registered in accordance with the Security Industry Authority (SIA) shall be on duty at all times when relevant entertainment is taking place.

#### **Condition c**

An adequate number of door supervisors shall be on duty on the premises whilst relevant entertainment takes place. There shall be at least one door supervisor on each entrance, in each separate part of the premises and on the door to the dressing room.

#### **Condition d**

CCTV to be installed to a standard agreed by police to cover all public areas, including all access and egress points in accordance with CCTV Code of Practice. Maintained and serviced on a regular basis and records to be kept. The system to have an incorporated recording facility and recordings to be stored for one calendar month. The CCTV system to be fully operational throughout the hours that the premises are open for licensable activity. Access of the recordings to be made available at any reasonable time to Police and Local Authority officers upon request. Staff will be fully trained in the CCTV system and there will be at least one member of staff on duty during trading hours who is able to provide a recording of any incident in a format that can be taken away to be viewed.

### **Entertainers/Performers**

#### **Condition e**

Whilst dancers are performing there shall be a minimum distance of one metre between the dancer and the seated customers and prominent, clear notices shall be displayed at each table stating this requirement

Condition f

There shall be no physical contact between customers and the dancers at any time except for the placing of money or tokens in a garter or into the hands of the dancer at the beginning or conclusion of a performance.

**Staffing**

Condition g

All staff employed to work at any premises licensed as a sex establishment shall be required to provide an enhanced criminal records bureau disclosure to the Licensing Authority in which the premises is located.

## Feedback Form - Draft 'Licensing Sex Shops, Sex Cinemas and Sexual Entertainment Venues Policy'

Respondent	Comment	Ref	Officers comments and recommendation to Licensing and Appeals Committee
Chief Insp 8835 Pate	Item 11. Insert Article 8 (Right to a Private Life) Human Rights Act 1998 could be noted to identify this element of the HRA	11	Accept recommendation and insert Article 8

Please email any feedback to [licensing.services@tmhc.gov.uk](mailto:licensing.services@tmhc.gov.uk)

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## TONBRIDGE & MALLING BOROUGH COUNCIL

### LICENSING & APPEALS COMMITTEE

14 March 2017

#### Report of the Director of Central Services and Monitoring Officer

#### Part 1- Public

#### Delegated

### 1 APPOINTMENTS OF STANDS FOR HACKNEY CARRIAGES

#### 1.1 Overview

- 1.1.1 Tonbridge & Malling Borough Council has power under section 63 of the Local Government (Miscellaneous Provisions) Act 1976 to appoint stands for hackney carriages within the Borough.
- 1.1.2 There are currently two separate Regulations in place for the appointment of taxi stands:
- 1) 7 August 2009 – A copy is shown at **Annex 1**
  - 2) 10 August 2004 - A copy is shown at **Annex 2**
- 1.1.3 Kent County Council (KCC), as the Local Traffic Authority made an Order to coincide with the improvement scheme on Tonbridge High Street. This order resulted in the Taxi stands at Avebury Avenue and Bradford Street being designated as Disabled Persons Parking Places. The consequence of implementing this order meant that the taxi stands were repainted to show parking for Disabled Persons Parking Places.
- 1.1.4 Tonbridge & Malling Borough Council appoints taxi stands within the Borough. Consequently, the KCC order was of no legal effect in relation to the taxi stands. As a result the Disabled Persons Parking Places were repainted back to show the taxi stands.
- 1.1.5 A new Regulation has been drawn up for Members consideration to replace the two existing regulations and take in to account the KCC Experimental Order in Tonbridge High Street. It also presents an opportunity to consolidate the existing provisions into a single Order. A copy of the proposed Regulation is shown at **Annex 3**

## 1.2 The KCC Experimental Order

- 1.2.1 The KCC Experimental Order was made exercise of their powers under Sections 9 and 10 (2) of the Road Traffic Regulation Act 1984 (“the Act”) and of all other enabling powers, and after consultation with the chief officer of police in accordance with Part III of Schedule 9 to the said Act of 1984
- 1.2.2 In addition to removing the taxi stands at Avebury Avenue and Bradford Street, the Experimental Order also allows hackney carries to use two bus stops in the High Street, when the buses are not running between the hours of 11:45 – Midnight – Midnight – 07:30 hours.
- 1.2.3 The two bus stops are located at:
- From a point 4 metres southwest of the southern kerbline of Lamberts Yard southwestwards for 19 metres
  - From the south-western boundary of No.9 to a point 4.4 metres southwest of boundary No’s 5 & 7
- 1.2.4 A copy of the Experimental Order is shown at **Annex 4**

### The new Regulation – Consultation

- 1.2.5 Under Section 63(2) Tonbridge & Malling Borough Council is required to consult with the chief officer of police; advertise in a local newspaper and run the consultation period for 28 days.
- 1.2.6 It is proposed to run the consultation from Friday 17 March 2017 until 14 April 2017.
- 1.2.7 In addition we will make people aware of the consultation by showing details on the web and emailing all taxi stakeholders.
- 1.2.8 If any objections or representations are received they will be considered at a future meeting of the Licensing and Appeals Committee.

## 1.3 Legal Implications

- 1.3.1 Tonbridge & Malling Borough Council has power under section 63 of the Local Government (Miscellaneous Provisions) Act 1976 to appoint stands for hackney carriages within the Borough.

- 1.3.2 The KCC Experimental Order – High Street, Tonbridge does not override the existing “Appointment of hackney carriage stands” orders dated 7 August 2009 and 10<sup>th</sup> August 2004. The proposed Regulation would replace these two orders.

#### **1.4 Financial and Value for Money Considerations**

- 1.4.1 No financial have been identified

#### **1.5 Risk Assessment**

- 1.5.1 The introduction of an updated Regulation should provide a transparent and consistent basis for identifying where hackney carriages can use appointed stands.

#### **1.6 Equality Impact Assessment**

- 1.6.1 The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no perceived impact on end users.

#### **1.7 Recommendations**

- 1.7.1 Members are **RECOMMENDED** to approve the draft regulation for consultation.

Background papers:

contact: Anthony Garnett 6151

Local Government (Miscellaneous Provisions) Act  
1976

Adrian Stanfield  
Director of Central Services and Monitoring Officer

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# PUBLIC NOTICE



## In the District of Tonbridge & Malling

### THE KENT COUNTY COUNCIL (HIGH STREET, TONBRIDGE) (WAITING AND LOADING RESTRICTIONS) EXPERIMENTAL ORDER 2016

#### ROAD TRAFFIC REGULATION ACT 1984

THE KENT COUNTY COUNCIL acting as the Local Traffic Authority and in exercise of their powers under Sections 9 and 10 (2) of the Road Traffic Regulation Act 1984 ("the Act") and of all other enabling powers, and after consultation with the chief officer of police in accordance with Part III of Schedule 9 to the said Act of 1984, hereby makes the following Order:-

Because of the improvement scheme on High Street, Tonbridge, The Kent County Council has made various restrictions in the following roads; Avebury Avenue, Botany, Bradford Street and High Street, Tonbridge.

The restrictions in the locations stated in this Experimental Traffic Regulation Order shall suspend and replace the restrictions in the locations stated in the existing on-street Traffic Regulation Order/s (and all Amendments) and shall be enforceable and any infringement may be dealt with by the issue of a penalty charge.

This Experimental Traffic Regulation Order (and any subsequent Amendments) will introduce part time Bus Clearways, Disabled Parking Places, Loading only bays for goods vehicles (gross weight over 5 tonnes), Waiting and Loading Restrictions (waiting and loading and unloading to be prohibited at any time) and Parking Places for Taxis.

The Parking Places for Taxis shall be located within the part time Bus Clearways and operate outside bus operating times (Midnight – 7.30am and 11:45pm – Midnight every day).

The Experimental Order has been made to allow for an assessment of the changes before a decision is taken to make it permanent

#### **Tonbridge High Street.**

#### **High Street - west side**

(From the Roundabout junction with Vale Road to the junction with River Walk)

#### **a) Double Yellow Line Restrictions (At any Time):**

**Avebury Avenue, north side**

From the north-eastern kerblines of High Street to the south-eastern kerblines of River Lawn Road

**Avebury Avenue**, south side

From the north-western kerblines of High Street, westwards for 22.5 metres

**Bradford Street**, South

From 24.7m west of the western kerblines of High Street, westwards for 35.4m

**High Street**, west side,

From the northern kerblines of Avebury Avenue north-eastwards for 7.4 metres

From the boundary of No's 36 & 38 to its junction with Lamberts Yard

From the southern flank wall of No 40/42 north-eastwards for 4 metres

b) **Double Yellow Line Restrictions (At any Time and Loading and Unloading):**

from a point 2.2metres northeast of boundary No's 48 & 50 to a point 1.6 metres northeast of the southern flank wall of boundary No.62

From the northern kerblines of Bradford Street to the northern boundary of No.78

From the southern kerblines of New Wharf Road south-westwards for 6 metres

From a point 4.5 metres northeast of boundary No's 98 & 100 to its junction with River Walk

**Bradford Street**

North, from 14m on north side from the western kerblines of High Street

South, from 13.5m on south side from western kerblines of High Street

c) **Disabled Persons Parking Places**

**Avebury Avenue**, south side

South side; from a point 23.3m west of the north-western kerblines of High Street, northwestwards for 22.3m

**Bradford Street**, south side

From 13.5m south from the western kerblines of High Street for 11.2m

d) **Loading only – Parking for good vehicles:**

For the entire length of lay-by from a point 7.4 metres north-eastwards from the northern kerblines of Avebury Road to the south-western flank wall of No.16

For the entire length of lay-by from a point 4 metres southwest of boundary No's 26/28 & 30 to a point 3.6 metres northeast of boundary No.32

For the entire length of lay-by from a point 4 metres northeast of the southern flank of No's 40/42 to a point 2.2 metres northeast of boundary No's 48 & 50

For the entire length of lay-by from a point 1.6 metres northeast of the southern flank wall of boundary No. 62 to a point 6.2 metres southwest of the southern kerbline of Bradford Street

For the entire length of lay-by from the northern boundary of No.78 to a point 6 metres southwest of the southern kerbline of New Wharf Road

For the entire length of lay-by from a point 4.7 metres northeast of the southern flank wall of No.94 to a point 4.5 metres northeast of boundary of No's 98 & 100

e) **Part Time Bus Clearway – 7.30am – 11.45pm**

**High Street;**

From a point 4 metres southwest of the southern kerbline of Lamberts Yard south-westwards for 19 metres

f) **Licensed Hackney Carriages (Parking Places for Taxis) – 11.45pm – Midnight – Midnight - 7.30am** (outside bus operating times)

g) **High Street;**

From a point 4 metres southwest of the southern kerbline of Lamberts Yard south-westwards for 19 metres

**2) High Street - east side**

(From the junction with Lyons Crescent to its junction with Vale Road)

a) **Double Yellow Line Restrictions (At any Time):**

**High Street**

From a point 4.4 metres southwest of boundary No's 5 & 7 to its junction with Vale Road

**Botany** northeast and northwest side,

From the southwestern kerbline of Sovereign Way, southwestwards and northwestwards to 34.4m southeast of the end of the road

**b) Double Yellow Line Restrictions (At any Time and Loading and Unloading)**

From 12m north of the northern kerbline of Lyons Crescent to the northern kerbline of Medway Wharf Road

From the southern kerbline of Medway Wharf Road to the southern boundary of No.87

From a point 2.4 metres southwest of the northern flank wall of No's 69 to 71 to the boundary of No's 65 & 67

From the north-eastern flank wall of boundary of No.59 to a point 4.4 metres southwest of the south-western flank wall of No.13

**c) Loading only – Parking for good vehicles:**

For the entire length of lay-by from a point 1.3 metres southwest of the southern flank wall of No.87 to a point 1.6 metres northeast of boundary No's 75 & 77 to 81

For the entire length of lay-by from the southern boundary of No's 65 & 67 to the north-eastern flank wall of No.59

**d) Bus Clearway – 7.30am – 11.45pm**

From the south-western boundary of No.9 to a point 4.4 metres southwest of boundary No's 5 & 7

**e) Licensed Hackney Carriages (Parking Places for Taxis) – 11.45pm – Midnight – Midnight - 7.30am (outside bus operating times)**

From the south-western boundary of No.9 to a point 4.4 metres southwest of boundary No's 5 & 7

Any person wishing to make representations whether to object or support the Order before they are made permanent must do so in writing quoting the reference (TRO/Experimental/High Street/Tonbridge) specifying the grounds on which they are made within 6 months (noon on Friday 27<sup>th</sup> January 2017) of the Experimental Order coming into force or if the Order is subsequently varied or modified within 6 months of the variation or modification coming into force to The TRO Coordinator, 125-135 Brenchley House, Week Street, Maidstone, Kent, ME14 1RF or email [TRO@Amey.co.uk](mailto:TRO@Amey.co.uk) stating their reasons.

**Roger Wilkin**

Director  
Highways Transportation & Waste



**THE KENT COUNTY COUNCIL**  
**(HIGH STREET, TONBRIDGE)**  
**(WAITING AND LOADING RESTRICTIONS)**  
**EXPERIMENTAL ORDER 2016**

Road Traffic Regulation Act 1984

THE KENT COUNTY COUNCIL acting as the Local Traffic Authority and in exercise of their powers under Sections 9 and 10 (2) of the Road Traffic Regulation Act 1984 ("the Act") and of all other enabling powers, and after consultation with the chief officer of police in accordance with Part III of Schedule 9 to the said Act of 1984, hereby makes the following Order:-

**REVOCATIONS, MODIFICATIONS AND AMENDMENTS**

1. "The Kent County Council (Various Roads, Tonbridge and Malling) (Waiting Restrictions and Street Parking Places) Consolidation Order 2011 (and all subsequent Amendments) restrictions specified in Appendix 21 (Tonbridge) to this Order are hereby suspended or amended (as described) and their provisions are consolidated within this Order for the period of operation of the Experimental Order.
2. This Experimental Traffic Regulation Order (and any subsequent Amendments) will introduce part time Bus Clearways, Disabled Parking Places, Loading only bays for goods vehicles (gross weight over 5 tonnes), Waiting and Loading Restrictions (waiting and loading and unloading to be prohibited at any time) and Parking Places for Taxis.
3. The Parking Places for Taxis shall be located within the part time Bus Clearways and operate outside bus operating times (Midnight – 7.30am and 11:45pm – Midnight every day).
4. Under Section 10 (2) of the Road Traffic Regulation Act 1984, the Director of Planning and Transport or any person authorised by him may modify or suspend the operation of this Order or any provision of it if it appears to him essential:-
  - a) in the interests of the expeditious, convenient and safe movement of traffic;
  - b) in the interests of providing suitable and adequate on-street parking facilities or;
  - c) for preserving or improving the amenities of the area through which any road affected by this Order runs.
5. This power shall be exercised only after the consulting the appropriate Chief Officer of Police and giving such public notice as the Secretary of State may direct.
6. The provisions of this order shall prevail over the provisions of any previous order which is temporarily suspended for the period of operation of the Experimental Order.
7. In this Order the expression "Order of 2011" means "The Kent County Council (Various Roads, Tonbridge & Malling) Waiting Restrictions & On-Street Parking Places (Consolidation) Order 2011 ("the Order of 2011") and all subsequent Amendments
8. The Order of 2011 shall have effect as though;

- (i) In the Schedules to the Order thereto, the "Schedules" shall be amended by the addition of Schedule 6 to this Order
- (ii) In the Schedules to the Order thereto, the provisions set out below to this Order shall be added

**SCHEDULE 6 – Parking places for goods vehicles**

24.1) Lengths of road marked as parking places where parking is permitted under the same terms as "Schedule 3 – Parking Places" for goods vehicles;

- i) On stated days (where specified)
- ii) Between stated times (where specified)
- iii) Subject to a maximum duration of stay (where specified)
- iv) Subject to a minimum 'no return' period before re-parking (where specified)
- v) Where parking is subject to the payment of a charge according to the specified tariff
- vi) For stated classes of vehicles only (where specified)
- vii) Where permit holders for the stated area are exempted

24.2) Save as provide in Articles 34 – 42 of this Order, no person shall, except upon the direction or with the permission of a police constable in uniform or of a Civil Enforcement Officer, cause or permit any vehicle (other than that specified in the "class of vehicle" column of the relevant Appendix) to wait in any restricted road or length of restricted road during the times and days specified.

**CITATION AND COMMENCEMENT**

9. This Order may be cited as The Kent County Council (Various Roads, Tonbridge and Malling) (Waiting Restrictions and Street Parking Places) Experimental Order 2016 and shall come into operation on the 5<sup>th</sup> day of July 2016 for a period not exceeding 18 months.

Given under the Common Seal of The Kent County Council

This                    day of                    2016

**THE COMMON SEAL OF THE  
KENT COUNTY COUNCIL was  
hereunto affixed in the  
presence of :-**

Authorised Signatory

## **Local Government (Miscellaneous Provisions) Act 1976**

### **Borough of Tonbridge and Malling (Taxi Ranks) Regulations 2017**

In exercise of the powers conferred upon it by section 63 of the Local Government (Miscellaneous Provisions) Act 1976, and with consent of the Highway Authority and the owner named in Part 2 of the Schedule, the Tonbridge and Malling Borough Council hereby makes the following regulations:

#### **1. Citation and commencement**

- 1) These regulations may be cited as the Borough of Tonbridge and Malling (Taxi Ranks) Regulations 2017.
- 2) These regulations shall come into force on 1 May 2017.

#### **2. Appointment of hackney carriage stands**

- 1) The places listed in columns (1) and (2) of Parts 1 and 2 of the Schedule are appointed as stands for hackney carriages during the times specified in column (3) of the Schedule for the number of carriages specified in column (4) of the schedule.
- 2) No hackney carriage shall be allowed to stand on any of the stands listed in Part 2 of the Schedule without the prior written consent of the owner specified in column (5) of the Schedule.

#### **3. Revocation of existing appointment**

The appointment of the hackney carriage stands made by the Council under section 63(4) of the Local Government (Miscellaneous Provisions) Act 1976 on 26 November 1993 (as subsequently amended) is hereby revoked for:

- Avebury Avenue, Tonbridge for 3 vehicles
- Bradford Street, Tonbridge for 2 vehicles
- Botany, Tonbridge for 2 vehicles

Made by the Council on 7 August 2009.

## The Schedule

### PART 1: HACKNEY CARRIAGE STANDS ON THE HIGHWAY

Location (1)	Description (2)	Times (3)	Number of Vehicles (4)
Angel Lane, Tonbridge	East side of the road, extending 12 metres northward from a point 50 metres from the junction of Angel Lane and Vale Road	At all times	2
Botany, Tonbridge	Turning head on north side	At all times	2
High Street, Tonbridge	East side north of Lyons Crescent	At all times	2
Waterloo Road, Tonbridge	North side of the road, extending 55 metres westward from a point 32 metres west of junction with Railway Approach	At all times	21
High Street, West Malling	In front of 84 High Street	At all times	2

**PART 2: HACKNEY CARRIAGE STANDS ON THE HIGHWAY**

<b>Location (1)</b>	<b>Description (2)</b>	<b>Times (3)</b>	<b>Number of Vehicles (4)</b>	<b>Owner of the land (5)</b>
Station Approach, Borough Green	In front of the main entrance to Borough Green and Wrotham Railway Station	At all times	6	Network Rail
Station Approach, West Malling	In front of the main entrance to West Malling Railway Station	At all times	2	Network Rail

The Common Seal of Tonbridge and Malling Borough Council was hereunto affixed this.....

Adrian Stanfield

Central Service Director and  
Monitoring Officer

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**DOCUMENTS  
ON  
DEPOSIT**



**These documents should  
remain available for  
public inspection until  
27<sup>th</sup> January 2017**

**THE KENT COUNTY COUNCIL  
(HIGH STREET, TONBRIDGE)  
(WAITING AND LOADING RESTRICTIONS)  
EXPERIMENTAL ORDER 2016**

Road Traffic Regulation Act 1984

# PUBLIC NOTICE



## In the District of Tonbridge & Malling

### THE KENT COUNTY COUNCIL (HIGH STREET, TONBRIDGE) (WAITING AND LOADING RESTRICTIONS) EXPERIMENTAL ORDER 2016

#### ROAD TRAFFIC REGULATION ACT 1984

THE KENT COUNTY COUNCIL acting as the Local Traffic Authority and in exercise of their powers under Sections 9 and 10 (2) of the Road Traffic Regulation Act 1984 ("the Act") and of all other enabling powers, and after consultation with the chief officer of police in accordance with Part III of Schedule 9 to the said Act of 1984, hereby makes the following Order:-

Because of the improvement scheme on High Street, Tonbridge, The Kent County Council has made various restrictions in the following roads; Avebury Avenue, Botany, Bradford Street and High Street, Tonbridge.

The restrictions in the locations stated in this Experimental Traffic Regulation Order shall suspend and replace the restrictions in the locations stated in the existing on-street Traffic Regulation Order/s (and all Amendments) and shall be enforceable and any infringement may be dealt with by the issue of a penalty charge.

This Experimental Traffic Regulation Order (and any subsequent Amendments) will introduce part time Bus Clearways, Disabled Parking Places, Loading only bays for goods vehicles (gross weight over 5 tonnes), Waiting and Loading Restrictions (waiting and loading and unloading to be prohibited at any time) and Parking Places for Taxis.

The Parking Places for Taxis shall be located within the part time Bus Clearways and operate outside bus operating times (Midnight – 7.30am and 11:45pm – Midnight every day).

The Experimental Order has been made to allow for an assessment of the changes before a decision is taken to make it permanent

#### **Tonbridge High Street.**

#### **High Street - west side**

(From the Roundabout junction with Vale Road to the junction with River Walk)

#### **a) Double Yellow Line Restrictions (At any Time):**

**Avebury Avenue, north side**



From the north-eastern kerblines of High Street to the south-eastern kerblines of River Lawn Road

**Avebury Avenue, south side**

From the north-western kerblines of High Street, westwards for 22.5 metres

**Bradford Street, South**

From 24.7m west of the western kerblines of High Street, westwards for 35.4m

**High Street, west side,**

From the northern kerblines of Avebury Avenue north-eastwards for 7.4 metres

From the boundary of No's 36 & 38 to its junction with Lamberts Yard

From the southern flank wall of No 40/42 north-eastwards for 4 metres

b) **Double Yellow Line Restrictions (At any Time and Loading and Unloading):**

from a point 2.2metres northeast of boundary No's 48 & 50 to a point 1.6 metres northeast of the southern flank wall of boundary No.62

From the northern kerblines of Bradford Street to the northern boundary of No.78

From the southern kerblines of New Wharf Road south-westwards for 6 metres

From a point 4.5 metres northeast of boundary No's 98 & 100 to its junction with River Walk

**Bradford Street**

North, from 14m on north side from the western kerblines of High Street

South, from 13.5m on south side from western kerblines of High Street

c) **Disabled Persons Parking Places**

**Avebury Avenue, south side**

South side; from a point 23.3m west of the north-western kerblines of High Street, northwestwards for 22.3m

**Bradford Street, south side**

From 13.5m south from the western kerblines of High Street for 11.2m

d) **Loading only – Parking for good vehicles:**

For the entire length of lay-by from a point 7.4 metres north-eastwards from the northern kerblines of Avebury Road to the south-western flank wall of No.16

For the entire length of lay-by from a point 4 metres southwest of boundary No's 26/28 & 30 to a point 3.6 metres northeast of boundary No.32

For the entire length of lay-by from a point 4 metres northeast of the southern flank of No's 40/42 to a point 2.2 metres northeast of boundary No's 48 & 50

For the entire length of lay-by from a point 1.6 metres northeast of the southern flank wall of boundary No. 62 to a point 6.2 metres southwest of the southern kerblines of Bradford Street

For the entire length of lay-by from the northern boundary of No.78 to a point 6 metres southwest of the southern kerblines of New Wharf Road

For the entire length of lay-by from a point 4.7 metres northeast of the southern flank wall of No.94 to a point 4.5 metres northeast of boundary of No's 98 & 100

e) **Part Time Bus Clearway – 7.30am – 11.45pm**

**High Street;**

From a point 4 metres southwest of the southern kerblines of Lamberts Yard south-westwards for 19 metres

f) **Licensed Hackney Carriages (Parking Places for Taxis) – 11.45pm – Midnight – Midnight - 7.30am** (outside bus operating times)

g) **High Street;**

From a point 4 metres southwest of the southern kerblines of Lamberts Yard south-westwards for 19 metres

2) **High Street - east side**

(From the junction with Lyons Crescent to its junction with Vale Road)

a) **Double Yellow Line Restrictions (At any Time):**

**High Street**

From a point 4.4 metres southwest of boundary No's 5 & 7 to its junction with Vale Road

**Botany** northeast and northwest side,

From the southwestern kerblines of Sovereign Way, southwestwards and northwestwards to 34.4m southeast of the end of the road

b) **Double Yellow Line Restrictions (At any Time and Loading and Unloading)**

From 12m north of the northern kerblines of Lyons Crescent to the northern kerblines of Medway Wharf Road

From the southern kerblines of Medway Wharf Road to the southern boundary of No.87

From a point 2.4 metres southwest of the northern flank wall of No's 69 to 71 to the boundary of No's 65 & 67

From the north-eastern flank wall of boundary of No.59 to a point 4.4 metres southwest of the south-western flank wall of No.13

**c) Loading only – Parking for good vehicles:**

For the entire length of lay-by from a point 1.3 metres southwest of the southern flank wall of No.87 to a point 1.6 metres northeast of boundary No's 75 & 77 to 81

For the entire length of lay-by from the southern boundary of No's 65 & 67 to the north-eastern flank wall of No.59

**d) Bus Clearway – 7.30am – 11.45pm**

From the south-western boundary of No.9 to a point 4.4 metres southwest of boundary No's 5 & 7

**e) Licensed Hackney Carriages (Parking Places for Taxis) – 11.45pm – Midnight – Midnight - 7.30am (outside bus operating times)**

From the south-western boundary of No.9 to a point 4.4 metres southwest of boundary No's 5 & 7

Any person wishing to make representations whether to object or support the Order before they are made permanent must do so in writing quoting the reference (TRO/Experimental/High Street/Tonbridge) specifying the grounds on which they are made within 6 months (noon on Friday 27<sup>th</sup> January 2017) of the Experimental Order coming into force or if the Order is subsequently varied or modified within 6 months of the variation or modification coming into force to The TRO Coordinator, 125-135 Brenchley House, Week Street, Maidstone, Kent, ME14 1RF or email [TRO@Amey.co.uk](mailto:TRO@Amey.co.uk) stating their reasons.

**Roger Wilkin**

Director  
Highways Transportation & Waste

**THE KENT COUNTY COUNCIL**  
**(HIGH STREET, TONBRIDGE)**  
**(WAITING AND LOADING RESTRICTIONS)**  
**EXPERIMENTAL ORDER 2016**

**Road Traffic Regulation Act 1984**

THE KENT COUNTY COUNCIL acting as the Local Traffic Authority and in exercise of their powers under Sections 9 and 10 (2) of the Road Traffic Regulation Act 1984 ("the Act") and of all other enabling powers, and after consultation with the chief officer of police in accordance with Part III of Schedule 9 to the said Act of 1984, hereby makes the following Order:-

**REVOCATIONS, MODIFICATIONS AND AMENDMENTS**

1. "The Kent County Council (Various Roads, Tonbridge and Malling) (Waiting Restrictions and Street Parking Places) Consolidation Order 2011 (and all subsequent Amendments) restrictions specified in Appendix 21 (Tonbridge) to this Order are hereby suspended or amended (as described) and their provisions are consolidated within this Order for the period of operation of the Experimental Order.
2. This Experimental Traffic Regulation Order (and any subsequent Amendments) will introduce part time Bus Clearways, Disabled Parking Places, Loading only bays for goods vehicles (gross weight over 5 tonnes), Waiting and Loading Restrictions (waiting and loading and unloading to be prohibited at any time) and Parking Places for Taxis.
3. The Parking Places for Taxis shall be located within the part time Bus Clearways and operate outside bus operating times (Midnight – 7.30am and 11:45pm – Midnight every day).
4. Under Section 10 (2) of the Road Traffic Regulation Act 1984, the Director of Planning and Transport or any person authorised by him may modify or suspend the operation of this Order or any provision of it if it appears to him essential:-
  - a) in the interests of the expeditious, convenient and safe movement of traffic;
  - b) in the interests of providing suitable and adequate on-street parking facilities or;
  - c) for preserving or improving the amenities of the area through which any road affected by this Order runs.
5. This power shall be exercised only after the consulting the appropriate Chief Officer of Police and giving such public notice as the Secretary of State may direct.
6. The provisions of this order shall prevail over the provisions of any previous order which is temporarily suspended for the period of operation of the Experimental Order.
7. In this Order the expression "Order of 2011" means "The Kent County Council (Various Roads, Tonbridge & Malling) Waiting Restrictions & On-Street Parking Places (Consolidation) Order 2011 ("the Order of 2011") and all subsequent Amendments
8. The Order of 2011 shall have effect as though;

- (i) In the Schedules to the Order thereto, the "Schedules" shall be amended by the addition of Schedule 6 to this Order
- (ii) In the Schedules to the Order thereto, the provisions set out below to this Order shall be added

**SCHEDULE 6 – Parking places for goods vehicles**

24.1) Lengths of road marked as parking places where parking is permitted under the same terms as "Schedule 3 – Parking Places" for goods vehicles;

- i) On stated days (where specified)
- ii) Between stated times (where specified)
- iii) Subject to a maximum duration of stay (where specified)
- iv) Subject to a minimum 'no return' period before re-parking (where specified)
- v) Where parking is subject to the payment of a charge according to the specified tariff
- vi) For stated classes of vehicles only (where specified)
- vii) Where permit holders for the stated area are exempted

24.2) Save as provide in Articles 34 – 42 of this Order, no person shall, except upon the direction or with the permission of a police constable in uniform or of a Civil Enforcement Officer, cause or permit any vehicle (other than that specified in the "class of vehicle" column of the relevant Appendix) to wait in any restricted road or length of restricted road during the times and days specified.

**CITATION AND COMMENCEMENT**

9. This Order may be cited as The Kent County Council (Various Roads, Tonbridge and Malling) (Waiting Restrictions and Street Parking Places) Experimental Order 2016 and shall come into operation on the 5<sup>th</sup> day of July 2016 for a period not exceeding 18 months.

Given under the Common Seal of The Kent County Council

This                    day of                    2016

**THE COMMON SEAL OF THE  
KENT COUNTY COUNCIL was  
hereunto affixed in the  
presence of :-**

Authorised Signatory



## **Local Government (Miscellaneous Provisions) Act 1976**

### **Borough of Tonbridge and Malling (Taxi Ranks) Regulations 2017**

In exercise of the powers conferred upon it by section 63 of the Local Government (Miscellaneous Provisions) Act 1976, and with consent of the Highway Authority and the owner named in Part 2 of the Schedule, the Tonbridge and Malling Borough Council hereby makes the following regulations:

#### **1. Citation and commencement**

- 1) These regulations may be cited as the Borough of Tonbridge and Malling (Taxi Ranks) Regulations 2017.
- 2) These regulations shall come into force on 1 May 2017.

#### **2. Appointment of hackney carriage stands**

- 1) The places listed in columns (1) and (2) of Parts 1 and 2 of the Schedule are appointed as stands for hackney carriages during the times specified in column (3) of the Schedule for the number of carriages specified in column (4) of the schedule.
- 2) No hackney carriage shall be allowed to stand on any of the stands listed in Part 2 of the Schedule without the prior written consent of the owner specified in column (5) of the Schedule.

#### **3. Revocation of existing appointment**

The appointment of the hackney carriage stands made by the Council under section 63(4) of the Local Government (Miscellaneous Provisions) Act 1976 on 26 November 1993 (as subsequently amended) is hereby revoked for:

- Avebury Avenue, Tonbridge for 3 vehicles
- Bradford Street, Tonbridge for 2 vehicles
- Botany, Tonbridge for 2 vehicles

Made by the Council on 7 August 2009.

## The Schedule

### PART 1: HACKNEY CARRIAGE STANDS ON THE HIGHWAY

Location (1)	Description (2)	Times (3)	Number of Vehicles (4)
Angel Lane, Tonbridge	East side of the road, extending 12 metres northward from a point 50 metres from the junction of Angel Lane and Vale Road	At all times	2
Botany, Tonbridge	Turning head on north side	At all times	2
High Street, Tonbridge	East side north of Lyons Crescent	At all times	2
Waterloo Road, Tonbridge	North side of the road, extending 55 metres westward from a point 32 metres west of junction with Railway Approach	At all times	21
High Street, West Malling	In front of 84 High Street	At all times	2



## PART 2: HACKNEY CARRIAGE STANDS ON THE HIGHWAY

<b>Location (1)</b>	<b>Description (2)</b>	<b>Times (3)</b>	<b>Number of Vehicles (4)</b>	<b>Owner of the land (5)</b>
Station Approach, Borough Green	In front of the main entrance to Borough Green and Wrotham Railway Station	At all times	6	Network Rail
Station Approach, West Malling	In front of the main entrance to West Malling Railway Station	At all times	2	Network Rail

The Common Seal of Tonbridge and Malling Borough Council was hereunto affixed this.....

Adrian Stanfield

Central Service Director and  
Monitoring Officer

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## TONBRIDGE & MALLING BOROUGH COUNCIL

### LICENSING & APPEALS COMMITTEE

14 March 2017

#### Report of the Director of Central Services and Monitoring Officer

#### Part 1- Public

#### Delegated

### 1 REVIEW OF HACKNEY CARRIAGE FARES

#### 1.1 Background

1.1.1 In accordance with our commitment to review the maximum fares on an annual basis (agreed by this Committee on 21 September 2010), this report invites Members to consider whether any increase in the maximum fares is appropriate.

1.1.2 Members may recall the last increase was authorised for 7 January 2013.

1.1.3 The current maximum fares are attached at **Annex 1**.

#### 1.2 Requirement to set fees

1.2.1 The Council is empowered to set maximum hackney carriage fares. It is important to note that these are the maximum fares that may be charged, and indeed it is an offence to charge more than the fare shown on the meter. No driver is required to charge the maximum fares and indeed many accept a lower rate. These fares do not apply to private hire work (journeys which are pre-booked) or to journeys which extend outside the Borough, although in the latter case an agreement to pay more than the metered fare must be made in advance of the hiring commencing.

### 1.3 Consultation with the Trade

1.3.1 All Hackney Carriage and Dual Badge licensed drivers were emailed on the 17 February 2017 asking them if they wanted a fare increase as proposed by Castle Cars of Tonbridge.

1.3.2 The Licensing Team received 48 replies.

Dual and Hackney Carriage Licence holders	replies	%
288	48	16%

1.3.3 In answer to the question of whether drivers wanted a fare increase

Reply	replies	%
Yes	46	96%
No	2	4%

### 1.4 Fuel costs

1.4.1 When determining the level of fares, paragraph 5.1.2 of our Hackney Carriage and Private Hire licensing policy provides that 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.

1.4.2 A key cost for the taxi trade is the price of fuel.

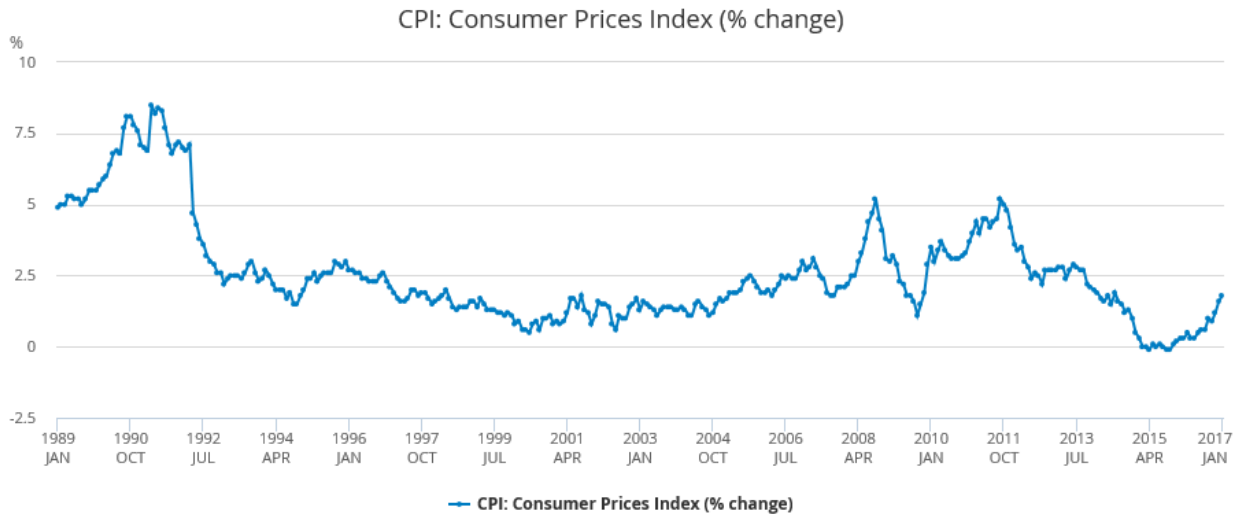
**Table 4.1.1 Typical retail prices of petroleum products and a crude oil price index<sup>(1)</sup>**

United  
Kingdom

		Motor spirit <sup>(1)</sup>			Standard grade burning oil <sup>(1)</sup>	Gas oil <sup>(1)(2)</sup>	Crude oil acquired by refineries <sup>(3)</sup>
		Super unleaded	Premium unleaded	Diesel <sup>(1)</sup>			
		<i>Pence per litre</i>					<i>2010 = 100</i>
2014	January	137.77	130.16	138.11	55.67	66.68	128.8
	February	136.34	129.00	136.65	52.87	65.81	128.5
	March	136.26	128.62	136.03	51.59	65.60	126.3
	April	136.34	128.79	135.87	51.36	66.69	125.4
	May	137.15	129.32	136.10	50.27	63.74	126.6
	June	137.35	129.70	135.41	51.69	63.93	128.2
	July	138.67	131.12	136.01	51.33	62.55	123.0
	August	136.85	129.27	133.61	51.15	62.61	119.5
	September	136.13	128.51	133.07	51.02	61.90	116.3
	October	134.24	126.76	131.08	46.73	58.66	106.4
	November	130.02	122.48	127.18	46.32	57.79	98.7
	December	123.71	116.22	122.37	41.75	51.40	80.5
2015	January	116.22	108.45	115.85	36.43	46.33	64.6
	February	114.94	107.20	114.60	37.27	48.71	70.0
	March	118.68	111.04	118.21	36.84	48.57	73.8
	April	120.07	112.55	119.09	36.47	48.20	76.2
	May	123.32	115.75	120.97	36.87	49.48	80.4
	June	123.96	116.40	121.24	37.11	49.69	76.8
	July	124.31	116.40	118.73	36.49	48.26	71.6
	August	122.33	114.48	111.70	30.38	43.26	59.9
	September	118.63	111.49	109.81	31.10	43.38	60.0
	October	117.22	108.90	110.68	31.28	44.03	61.5
	November	115.64	107.24	110.12	30.02	41.57	57.1
	December	112.36	103.68	107.77	28.59	38.10	50.8
2016	January	110.24	101.74	102.52	22.81	35.19	44.1
	February	109.72	101.40	101.02	21.89	33.46	43.0
	March	110.53	101.73	102.40	26.43	38.21	51.9
	April	115.02	106.44	106.94	27.40	38.84	55.7
	May	117.19	108.43	109.07	29.56	42.08	62.0
	June	119.71	110.96	111.86	32.01	44.30	66.2
	July	120.46	111.66	112.65	32.38	44.49	66.8
	August	118.35	109.05	110.68	30.03	43.74	67.1
	September	120.13	111.21	113.23	31.94	44.48	69.3
	October	123.23	113.56	115.64	37.45	50.25	76.9
	November	125.74	115.88	118.36	35.25	46.10	70.9
	December	123.64	114.07	117.16	38.64	50.01	82.1r
2017	January	127.85	118.69r	121.99r	40.68	51.99	86.7

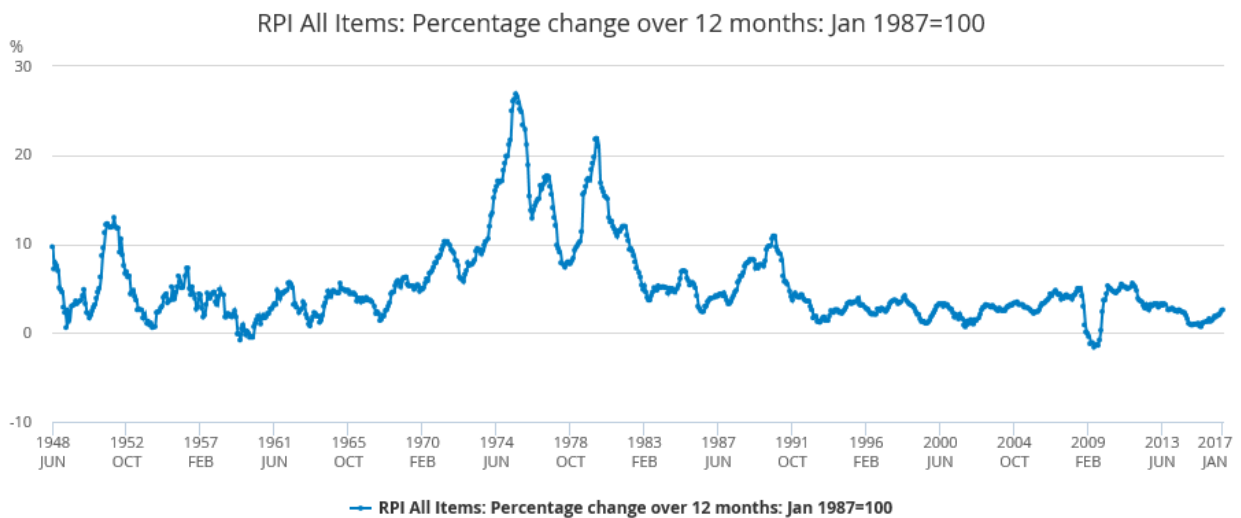
### Consumer Price Indices,

1.4.3 The Consumer Prices Index (CPI) annual inflation stands at 1.6 per cent in January 2017.



Source:

1.4.4 The Retail Prices Index (RPI) annual inflation stands at 2 per cent in January 2017.



Source:

### 1.4.5 Proposed Fare Increases

	Current	Proposal 1	Proposal 2
FLAG	£2.90 (up to .55 of a mile / FLAG (968 yards))	£3.00 (up to .50 of a mile / FLAG (880 yards))	£3.00 (up to .50 of a mile / FLAG (880 yards))
each subsequent 155 yards	£0.20 (each subsequent 155 yards)	£0.20 (each subsequent 135.38 yards)	£0.20 (each subsequent 135 yards)
1 Mile	£4.10	£4.30	£4.30
2 Mile	£6.30	£6.90	£6.90
Waiting Time (For each period of 20 seconds or part thereof)	£0.10	£0.20 for every 30 seconds	£0.20 for every 40 seconds
Extra Charges <ul style="list-style-type: none"> <li>For hiring beginning between 00:00 hours and 06:00 on any day</li> <li>at any time on a bank or public holiday except Christmas Day</li> <li>between 18:00 and 24:00 hours on Christmas Eve</li> <li>between 18:00 and 24:00 hours on New Year's Eve</li> <li>Easter Sunday</li> </ul>	50% of the above rate of fare  NB: Did not include Easter Sunday	50% of the above rate of fare	50% of the above rate of fare
For hiring beginning at any time on Christmas Day	100% of the above rate of fare  NB: Did include Easter Sunday	100% of the above rate of fare	100% of the above rate of fare
For hiring's on Saturdays & Sundays per fare beginning between 06:00 hours and 24:00 hours.	£0.50 surcharge on each fare	£0.50 surcharge on each fare	£0.50 surcharge on each fare
For the carriage of more than four passengers up to the maximum capacity of the carriage	50% of the above rate of fare	50% of the above rate of fare	50% of the above rate of fare
Vehicle spoilage charge	£100.00	£100.00	£100.00
Congestion charges, tolls and car parking	Congestion charges, tolls and car parking incurred during hiring Any charges(s) detailed above, incurred as a result of a passengers instruction may be added to the fare.	Congestion charges, tolls and car parking incurred during hiring Any charges(s) detailed above, incurred as a result of a passengers instruction may be added to the fare.	Congestion charges, tolls and car parking incurred during hiring Any charges(s) detailed above, incurred as a result of a passengers instruction may be added to the fare.

#### 1.4.6 Comparison with Kent Authorities

Region	2 Miles	
Ashford	£6.20	
Canterbury	£6.00	
Dartford	£7.00 ①	
Dover	£6.00	
Gravesham	£6.40	
Maidstone	£6.50	
Medway	£6.60 ③	
Sevenoaks	£6.74 ②	
Shepway	£6.20	
Swale	£6.30	
Thanet	£5.00	
Tonbridge and Malling	£6.30	£6.90
Tunbridge Wells	£6.60 ③	

#### 1.5 Legal Implications

Any proposal to vary the table of fares is subject to consultation. Under the Local Government Act 1976 – Section 65, any fares approved by the Council must be advertised via a public notice in a local newspaper. Any relevant objections received would need to be reported back to Members for consideration.

#### 1.6 Financial and Value for Money Considerations

It should be noted that the tariff is the maximum fare that can be charged and discounts can be given, should the driver wish.

#### 1.7 Risk Assessment

Approval of a new maximum fare, below the expectation of the hackney carriage trade, may result in dissatisfaction from the trade. Increasing the maximum fare may result in complaints from members of the public.



## **1.8 Equality Impact Assessment**

- 1.8.1 The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no perceived impact on end users.

## **1.9 Recommendations**

- 1.9.1 Members are invited to consider increasing the Hackney Carriage Fares as detailed in section 1.4.5 of the report. In the event that Members are minded to approve an increase in the maximum fares, it is recommended that any change take effect from 1 May 2017 to allow for the statutory public consultation period. If any relevant objections are received during the period these will be reported to the Committee so that Members may consider whether to proceed with the proposed increase.

Background papers:

Nil

contact:  
Anthony Garnett

Adrian Stanfield  
Director of Central Services and Monitoring Officer

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## Hackney Carriage Authorised Maximum Fares from 7 January 2013



### Fares for time and distance

#### Standard Charges

If the distance does not exceed 0.55 mile for the whole distance £2.90

If the distance exceeds 0.55 miles:

- for the first 0.55 miles £2.90
- for each subsequent 155 yards or incomplete part thereof £0.20

#### Waiting time

For each period of 20 seconds or part thereof £0.10

#### Extra Charges

- for hiring beginning between 00:00 hours and 06:00 hours on any day
- at any time on a bank or public holiday except Christmas Day 50% of the above rate fare
- between 18:00 and 24:00 hours on Christmas Eve
- between 18:00 and 24:00 hours on New Year's Eve

For hiring beginning at any time on Christmas Day or Easter Sunday 100% of the above rate fare

For hiring's on Saturdays & Sundays per fare beginning between 06:00 hours and 24:00 hours £0.50 surcharge on each fare

For the carriage of more than four passengers up to the maximum capacity of the carriage 50% of the above rate fare

Vehicle spoilage charge £100

Any Congestion Charges, Road Tolls or Car Parking charges, incurred as a result of a passengers instruction may be added to the fare

Issued by The Licensing Department, Tonbridge & Malling Borough Council  
Telephone 01732 876368, Email: [licensing.services@tmbc.gov.uk](mailto:licensing.services@tmbc.gov.uk)

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# Agenda Item 8

Any other items which the Chairman decides are urgent due to special circumstances and of which notice has been given to the Chief Executive.

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# Agenda Item 9

The Chairman to move that the press and public be excluded from the remainder of the meeting during consideration of any items the publication of which would disclose exempt information.

**ANY REPORTS APPEARING AFTER THIS PAGE CONTAIN EXEMPT  
INFORMATION**

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# Agenda Item 10

Any other items which the Chairman decides are urgent due to special circumstances and of which notice has been given to the Chief Executive.

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