

TONBRIDGE & MALLING BOROUGH COUNCIL



EXECUTIVE SERVICES

Chief Executive

Julie Beilby BSc (Hons) MBA

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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

25 November 2014

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, Kings Hill, West Malling on Wednesday, 3rd December, 2014 commencing at 7.30 pm

Yours faithfully

JULIE BEILBY

Chief Executive

A G E N D A

PART 1 - PUBLIC

- | | | |
|----|--------------------------|-------|
| 1. | Apologies for Absence | 5 - 6 |
| 2. | Declarations of Interest | 7 - 8 |

3. Minutes 9 - 10

To confirm as a correct record the Minutes of the meeting of Licensing and Appeals Committee held on Tuesday, 16 September 2014.

4. Minutes of Panel 11 - 26

To receive the Minutes of the following meetings of the Licensing and Appeals Committee sitting as a Panel:

24 September 2014
6 October 2014
22 October 2014
21 November 2014 (To follow)

Decisions to be taken under Delegated Powers

5. Review of Fees and Charges 2015/16 - Licensing Fees 27 - 40

6. Urgent Items 41 - 42

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

Matters for consideration in Private

7. Exclusion of Press and Public 43 - 44

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.

PART 2 - PRIVATE

8. Urgent Items 45 - 46

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 C Brown (Chairman)
Cllr A W Allison (Vice-Chairman)

Cllr Mrs J A Anderson
Cllr Ms J A Atkinson
Cllr J A L Balcombe
Cllr O C Baldock
Cllr Mrs P Bates
Cllr Mrs B A Brown
Cllr M A Coffin

Cllr Mrs F A Kemp
Cllr S M King
Cllr M Parry-Waller
Cllr M Taylor
Cllr D J Trice
Cllr Mrs C J Woodger

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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, 16th September, 2014

Present: Cllr C Brown (Chairman), Cllr A W Allison (Vice-Chairman), Cllr Mrs J A Anderson, Cllr Ms J A Atkinson, Cllr J A L Balcombe, Cllr O C Baldock, Cllr Mrs P Bates, Cllr M A Coffin, Cllr S M King and Cllr D J Trice

Councillors N J Heslop, B J Luker and Mrs S Murray were also present pursuant to Council Procedure Rule No 15.21.

Apologies for absence were received from Councillors Mrs B A Brown, Mrs F A Kemp, M Parry-Waller and Mrs C J Woodger

PART 1 - PUBLIC

LA 14/68 DECLARATIONS OF INTEREST

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

LA 14/69 MINUTES

RESOLVED: That the Minutes of the meeting of the Licensing and Appeals Committee held on 17 June 2014 be approved as a correct record and signed by the Chairman.

LA 14/70 MINUTES OF PANEL


RESOLVED: That the Minutes of the meetings of the Licensing and Appeals Committee sitting as a Panel held on 1 July, 10 July, 30 July and 29 August 2014 be received and noted.

MATTERS FOR RECOMMENDATION TO THE COUNCIL

LA 14/71 FEEDBACK FROM CONSULTATION ON GOOD CONDUCT - APPENDIX 1 OF HACKNEY CARRIAGE AND PRIVATE HIRE POLICY

The Director of Central Services and Monitoring Officer reported that no returns had been received in respect of the consultation on proposed changes to the existing Hackney Carriage and Private Hire Licensing Policy which had been undertaken between 1 April and 16 May 2014. He reminded Members that Appendix 1 of the current policy "Good Conduct for Licensed Drivers" had been rewritten to reflect the focus on the aspiration to achieve high level of customer service and expressed disappointment at the lack of response to the consultation. The

Committee noted that, if adopted at Council on 4 November 2014, the new Policy would come into effect on 1 December 2014.

RECOMMENDED: That the proposed changes to the Hackney Carriage and Private Hire Licensing Policy, as set out at Annex 1 to the report, be approved. 

***Referred to Council**

LA 14/72 ADOPTION OF MODEL BYLAWS FOR HACKNEY CARRIAGES

The report of the Director of Central Services and Monitoring Officer set out details of a proposal to adopt a new single consolidated set of model Byelaws for Hackney Carriages, produced by the Department for Transport (DfT), to regulate the conduct of Hackney Carriage Drivers. He explained that any regulation of hackney carriage drivers must be secured through byelaws and that the latest set would bring the existing byelaws into line with changes in legislation and practice.

RECOMMENDED: That 

- (1) the Council passes a resolution to adopt the model byelaws, as set out at Annex 1 to the report, for the regulation of Hackney Carriages in accordance with section 68 of the Town Police Clauses Act 1847 and section 171 of the Public Health Act 1875;
- (2) the Director of Central Services be authorised to take all necessary steps to apply to the Department for Transport for confirmation; and
- (3) the model byelaws shall come into effect from the date on which the byelaws referred to above are confirmed by the Department for Transport and the current byelaws revoked.

***Referred to Council**

MATTERS FOR CONSIDERATION IN PRIVATE

LA 14/73 EXCLUSION OF PRESS AND PUBLIC

There were no items considered in private.

The meeting ended at 7.40 pm

TONBRIDGE AND MALLING BOROUGH COUNCIL

LICENSING AND APPEALS PANEL

Wednesday, 24th September, 2014

Present: Cllr M A Coffin (Chairman), Cllr Ms J A Atkinson and Cllr Mrs P Bates

Together with representatives of the Licensing Authority

PART 1 - PUBLIC

LA 14/74 DECLARATIONS OF INTEREST

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

LA 14/75 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 14/76 RENEWAL OF A HACKNEY CARRIAGE DRIVER'S LICENCE - CASE NO 12/2014

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

The Panel gave consideration to the report of the Director of Central Services and Monitoring Officer regarding an application for renewal of a Hackney Carriage Driver's Licence. The Panel was advised that the applicant's previous licence had expired on 22 March 2014 and that the renewal application had been received on 11 April 2014. The Panel noted that the Disclosure and Barring Service (DBS) enhanced disclosure had shown a Conviction dated 9 November 2012 for the Offence of Wounding/Inflicting Grievous Bodily Harm on 4 May 2011 under Section 20 of the Offences Against the Person Act 1861. The Panel further noted that the applicant had been sentenced to imprisonment for 3 years and given a restraining order (Protection from Harassment) which would stay in force until 9 November 2022.

The Panel listened carefully to the representations made by the Applicant who gave details of the incident which had led to his imprisonment. He explained that he had found alternative employment since leaving prison in October 2013 but wished to renew his licence and return to the job he had enjoyed prior to his conviction. The Panel expressed concern about the applicant's failure to formally notify the Licensing Authority of his conviction and that this had only become apparent on renewal. The Panel, therefore

RESOLVED: That the application be REFUSED as the Applicant had failed to meet the 'passage of time' criteria for submitting a new application (Policy 12.1.3) and had failed to supply clear mitigating circumstances or evidence of good character (Policy 12.3.2).

The meeting ended at 10.30 am
having commenced at 10am

TONBRIDGE AND MALLING BOROUGH COUNCIL

LICENSING AND APPEALS PANEL

Wednesday, 24th September, 2014

Present: Cllr M A Coffin (Chairman), Cllr Ms J A Atkinson and Cllr Mrs P Bates

Together with representatives of the Licensing Authority.

PART 1 - PUBLIC

LA 14/77 DECLARATIONS OF INTEREST

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

LA 14/78 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 14/79 APPLICATION FOR A PROBATIONARY HACKNEY CARRIAGE DRIVER'S LICENCE - CASE NO 13/2014

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

The Panel gave consideration to a report of the Director of Central Services and Monitoring Officer regarding an application for a Probationary Hackney Carriage Driver's Licence. The Panel was advised that the Applicant had held a Dual Driver's Licence with Tunbridge Wells Borough Council since August 2011. The Panel noted that the Applicant had disclosed a Caution for Common Assault (Criminal Justice Act 1988 S.39) dated 8 January 2012. The Panel listened carefully to the representations made by the Applicant and his proposed mentor who had accompanied him at the hearing. The Applicant confirmed that he understood the conditions applied to the probationary licence. The Panel, therefore

RESOLVED: That the Applicant be granted a Probationary Hackney Carriage Driver's Licence with Tonbridge and Malling Borough Council.

The meeting ended at 11.16 am
having commenced at 11.00 am

TONBRIDGE AND MALLING BOROUGH COUNCIL

LICENSING AND APPEALS PANEL

Wednesday, 24th September, 2014

Present: Cllr M A Coffin (Chairman), Cllr Ms J A Atkinson and Cllr Mrs P Bates

Together with representatives of the Licensing Authority

PART 1 - PUBLIC

LA 14/80 DECLARATIONS OF INTEREST

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

LA 14/81 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 14/82 REVIEW OF DUAL DRIVER'S LICENCE - CASE NO 14/2014

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

The Panel was invited to consider the conduct of a Dual Driver Licence Holder and to determine whether any action was required. The report of the Director of Central Services and Monitoring Officer set out details of two incidents in March 2014 where the Driver was driving a Private Hire vehicle and also left that vehicle unattended on a Hackney Carriage taxi rank and a further incident in July 2014 when the Driver was observed sitting in the Private Hire vehicle on the same taxi rank in Angel Lane, Tonbridge. The Panel noted that at the time of the original offence on 31 March 2014 the Driver had held a Hackney Carriage Driver's Licence and that this had been upgraded to a Dual Driver's Licence on 4 April 2014.

The Panel listened carefully to the representations made by the Driver and her employer and had regard to the written report of the Director of

Central Services and the photographic evidence contained in Annexes 4 and 5 to the report. The Panel was concerned that neither the Driver nor the Operator appeared to be aware that private hire vehicles were unable to park on a Hackney Carriage taxi rank.

The Panel made the following findings:-

- (1) the Driver did not, at the relevant time, hold a Private Hire Licence but had been driving a private hire vehicle;
- (2) the Driver had admitted that she had been parking at Angel Lane, Tonbridge, but did not think that she was doing something wrong;
- (3) the Driver was unaware that, as a driver of a private hire vehicle, she was not allowed to park her vehicle on the taxi rank; and
- (4) the Driver had no previous complaints against her and no previous penalty points.

The Panel noted that, under the Council's penalty points system, the Driver had received 12 points for driving a private hire vehicle without a private hire driver's licence (31 March 2014), 6 points for permitting any vehicle other than a hackney carriage to wait on a hackney carriage rank (31 March 2014) and 6 points for allowing a private hire vehicle to stand in such a position as to suggest that it was plying for hire or using a hackney carriage stand (10 July 2014). The Panel acknowledged that the Driver had corrected the first breach by applying for a Dual Driver's Licence.

Having considered the matter very carefully the Panel

RESOLVED: That

- (1) the 12 penalty points relating to driving a private hire vehicle without holding the correct driver's licence, dated 31 March 2014, be removed;
- (2) the 12 penalty points for the offences dated 31 March 2014 and 10 July 2014 and relating to the use of the hackney carriage taxi rank by a private hire vehicle be allowed to stay on the Dual Driver's Licence; and
- (3) the Driver be warned that the receipt of any additional penalty points on her Dual Driver's Licence will require her appearance before another hearing of the Licensing and Appeals Panel.

The meeting ended at 12.57 pm
having commenced at 12.00 pm

TONBRIDGE AND MALLING BOROUGH COUNCIL

LICENSING AND APPEALS PANEL

Wednesday, 24th September, 2014

Present: Cllr M A Coffin (Chairman), Cllr Ms J A Atkinson and Cllr Mrs P Bates
Together with representatives of the Licensing Authority.

PART 1 - PUBLIC

LA 14/83 DECLARATIONS OF INTEREST

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

LA 14/84 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 14/85 APPLICATION FOR A PROBATIONARY HACKNEY CARRIAGE DRIVER'S LICENCE - CASE NO 19/2014

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

Further to the hearing held on 30 July 2014 where the Panel had determined that it was unable to grant a full Hackney Carriage Driver's Licence, the Panel gave consideration to an application for a Probationary Hackney Carriage Driver's Licence.

The applicant was accompanied by his proposed mentor and the Panel listened carefully to their representations and had regard to the written report of the Director of Central Services and Monitoring Officer. The Panel, therefore

RESOLVED: That the Applicant be granted a Probationary Hackney Carriage Driver's Licence.

The meeting ended at 1.42 pm
having commenced at 1.30 pm

TONBRIDGE AND MALLING BOROUGH COUNCIL

LICENSING AND APPEALS PANEL

Monday, 6th October, 2014

Present: Cllr C Brown (Chairman), Cllr Mrs J A Anderson and Cllr O C Baldock

Together with representatives of the Licensing Authority, Ms E Reynolds, Mr S Barker and Ms A McLaughlin (on behalf of the Applicant) Councillors Mrs S Murray and M Taylor and Mrs J Cant (Interested Parties).

PART 1 - PUBLIC

LA 14/86 DECLARATIONS OF INTEREST

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

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

LA 14/87 APPLICATION FOR A NEW PREMISES LICENCE FOR REYNOLDS RETREAT, BASTED HOUSE, HARRISON ROAD, BOROUGH GREEN

The Panel gave consideration to an application made by the Reynolds Group for a Premises Licence under Section 17 of the Licensing Act 2003 in respect of premises known as "Reynolds Retreat", at Basted House, Harrison Road, Borough Green. The application related to the provision of films, recorded music, performance of dance and supply of alcohol for consumption on the premises.

The Panel gave careful consideration to the written report of the Director of Central Services and Monitoring Officer, the application set out in Annex 1 of the report, and the written representations received during the statutory consultation period from six local residents (which included those of local Borough Councillors Mrs S Murray and M Taylor) set out at Annex 2 to the report. The Panel was advised that the representation from Kent Police had been withdrawn following the agreement of the Applicant to the conditions circulated at the start of the meeting. Details of a condition which had satisfied the concerns raised by the Environmental Protection Team were also circulated at the start of the meeting.

The Panel listened carefully to the representations made by the applicant, Emma Reynolds, and by local residents and interested parties

Mrs S Murray, Mr M Taylor and Mrs J Cant. Particular concern was expressed about the issue of noise arising from the proposed licensable activities, the times of those activities as well as the potential for such noise to cause a public nuisance. Concern was also expressed about the routes used by customers departing the site and the potential of encouraging vehicular traffic to use Quarry Hill Road.

The Panel had regard to the Policy considerations set out in paragraph 1.5 of the report of the Director of Central Services and Monitoring Officer. In accordance with the objectives contained within the Licensing Act 2003 and the Guidance received from the Secretary of State and the objectives contained in the Licensing Policy of Tonbridge and Malling Borough Council, the Licensing and Appeals Committee, sitting as a Panel:

RESOLVED: That the Premises Licence be granted as follows:-

Section B	Films – (Indoors) Monday to Sunday – 18:00 hours until 22:00 hours - As applied for
Section F	Recorded Music – (Indoors) Monday to Sunday 09:00 hours until 00:30 hours – As applied for New Year’s Eve 09:00 hours until 01:30 hours – Agreed by Panel Christmas Eve 09:00 hours until 00:30 hours – As applied for Bank Holidays 09:00 hours until 00:30 hours – As applied for
Section G	Performance of dance – (Indoors) Monday to Sunday 09:00 hours until 00:30 hours – Agreed by Panel New Year’s Eve 09:00 hours until 01:30 hours – Agreed by Panel Christmas Eve 09:00 hours until 00:30 hours – As applied for Bank Holidays 09:00 hours until 00:30 hours – As applied for

Section J	<p>Supply of alcohol – (On sales)</p> <p>Monday to Sunday 11:00 hours until 23:30 hours – Agreed by Panel</p> <p>New Year's Eve 11:00 hours until 01:00 hours – Agreed by Panel</p> <p>Christmas Eve 11:00 hours until 00:00 (midnight) – Agreed by Panel</p> <p>Bank Holidays 11:00 hours until 23:30 hours – As applied for</p>
Section L	<p>Opening hours</p> <p>Monday to Sunday 06:30 hours until 00:30 hours – Agreed by Panel</p> <p>New Year's Eve 06:30 hours until 01:30 hours - Agreed by Panel</p> <p>Christmas Eve 06:30 hours until 00:30 hours - As applied for</p> <p>Bank Holidays 06:30 hours until 00:30 hours - As applied for</p>

Subject to the Mandatory Conditions as defined in the Licensing Act 2003 and to the following conditions as agreed between the applicant and the responsible authorities:

Conditions agreed with Kent Police:

1. CCTV shall be fitted to a standard agreed by the police that complies with the CCTV code of practice (Latest Edition), produced by the information Commissioner's Office.
2. The CCTV system shall be maintained and serviced on a regular basis. Records shall be kept to that effect.
3. CCTV shall be operational at all times that the premises are trading.
4. Images will be retained for a period of at least 30 days in an appropriate fashion.
5. The Police or Local Authority will be allowed to take a recording of the CCTV images by an appropriate format within 48hrs of the initial request being made by either the police or local authority.

6. All staff employed in the sale or supply of alcohol will be trained in their responsibilities under the licensing act 2003. Such training will be fully recorded.
7. A challenge 25 scheme will be adopted at the premises, all staff involved in the sale or supply of alcohol will be trained in the scheme and such training will be recorded. These records will be available to the police or other responsible authority upon request.
8. A refusal recording system will be in operation at the premises, all staff involved in the sale of alcohol will be fully trained in the system and it will record the following:
 - I. Date & time of refusal
 - II. Item refused
 - III. Name or description of person refused.
 - IV. Reason for refusal
 - V. Name of the staff member making the refusal
9. The refusal system will be available for inspection by any Police Officer, Local Authority Licensing Officer or Trading Standards officer at any reasonable time.

Conditions agreed with Environmental Health:

All amplified music should be contained within the buildings and be inaudible at the site boundary.

LA 14/88 EXCLUSION OF PRESS AND PUBLIC

There were no items considered in private.

The meeting ended at 11.08 am
having commenced at 10am

TONBRIDGE AND MALLING BOROUGH COUNCIL

LICENSING AND APPEALS PANEL

Wednesday, 22nd October, 2014

Present: Cllr Mrs F A Kemp (Chairman), Cllr Mrs J A Anderson and Cllr S M King

Together with representatives of the Licensing Authority.

PART 1 - PUBLIC

LA 14/89 DECLARATIONS OF INTEREST

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

LA 14/90 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 14/91 APPLICATION FOR A PROBATIONARY PRIVATE HIRE DRIVER'S LICENCE - CASE NO 16/2014

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

The Panel considered the report of the Director of Central Services and Monitoring Officer regarding an application for a Probationary Private Hire Driver's Licence and was advised of information received from the Disclosure and Barring Service.

The Panel listened carefully to the representations made by the Applicant and was also informed by the Licensing Manager of the 8 penalty points which had been endorsed on the Applicant's driving licence on 3 February 2014 following a conviction for driving without due care and attention.

The Panel made the following findings –

1. The application had been made within 4 years of a conviction for common assault. Paragraph 12.3.1 of Appendix D of the Tonbridge and Malling Borough Council Hackney Carriage and Private Hire Licensing Policy 2013-2016 (“the Policy”) stated that where an application was made within 4 years of such a conviction, the application would normally be refused.
2. The application was also made within 6 months of a conviction for driving without due care and attention. Under paragraph 12.14 of Appendix D of the Policy, this was treated as a “major traffic offence”. Paragraph 12.6 of Appendix D of the Policy stated that where such a conviction was within 6 months of the date of the application, the application would normally be refused.

For these reasons the Panel therefore

RESOLVED: That the Applicant was not a fit and proper person to hold a Probationary Private Hire Driver’s Licence at this time and the application be REFUSED in accordance with s51(1)(a) of the Local Government (Miscellaneous Provisions) Act 1976.

The meeting ended at 8.00 pm
having commenced at 7.30 pm

TONBRIDGE AND MALLING BOROUGH COUNCIL

LICENSING AND APPEALS PANEL

Wednesday, 22nd October, 2014

Present: Cllr Mrs F A Kemp (Chairman), Cllr Mrs J A Anderson and Cllr S M King

Together with representatives of the Licensing Authority.

PART 1 - PUBLIC

LA 14/92 DECLARATIONS OF INTEREST

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

LA 14/93 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 14/94 APPLICATION FOR A PROBATIONARY PRIVATE HIRE DRIVER'S LICENCE - CASE NO 18/2014

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

The Panel considered the report of the Director of Central Services and Monitoring Officer regarding an application for a Probationary Private Hire Driver's Licence and was advised of information received from the Disclosure and Barring Service.

The Panel listened carefully to the representations made by the Applicant and made the following findings –

1. The application had been made within 5 years of a conviction for possession of a controlled substance, namely Amphetamine. Paragraph 12.4.1 of Appendix D of the Tonbridge and Malling Borough Council Hackney Carriage and Private Hire Licensing

Policy 2013-2016 (“the Policy”) stated that where an application was made within 5 years of a conviction for a drug-related offence, the application would normally be refused. The Panel did not consider that sufficient evidence had been presented by the Applicant to indicate that it should depart from the Policy position.

2. The Applicant also drew the Panel’s attention to offences committed in 2008 for driving a motor vehicle taken without consent, possession of a bladed article in public and going equipped for theft, which carried custodial sentences in excess of 6 months. As such, those convictions were not considered to be “spent” under the Rehabilitation of Offenders Act 1974. Paragraph 12.13.6 of the Policy stated that the determination as to whether convictions were “spent” may be relevant to the issue of determining whether an applicant was a fit and proper person to hold a licence. Such convictions were therefore relevant to the Panel’s determination.

For these reasons the Panel therefore

RESOLVED: That the Applicant was not a fit and proper person to hold a Probationary Private Hire Driver’s Licence at this time and the application be REFUSED in accordance with s51(1)(a) of the Local Government (Miscellaneous Provisions) Act 1976.

The meeting ended at 9.30 pm
having commenced at 8.30 pm

TONBRIDGE & MALLING BOROUGH COUNCIL

LICENSING & APPEALS COMMITTEE

03 December 2014

Report of the Director of Central Services

Part 1- Public

Delegated

1 REVIEW OF FEES AND CHARGES 2015/16 - LICENSING FEES

1.1 Executive Summary

1.1.1 The responsibility for setting the licensing fees and charges for 2015/16 is with the Licensing & Appeals Committee.

1.1.2 The review has been carried out by the Licensing and Community Safety Manager and the report sets out the recommended changes to the existing fee structure.

1.1.3 The levels of fees that may be charged for delivery of the licensing function are subject to a number of external constraints. For example,

(a) Fees for gambling licences have to be set within the parameters established by the law, and our fees are already set at the maximum permissible levels.

(b) Fees for alcohol and entertainment licensing i.e. the Licensing Act 2003 are also fixed by the Government.

This report therefore focuses on the fees to be charged for hackney carriage and private hire licensing, together with the other miscellaneous licences/ registrations handled by the licensing service.

1.1.4 A table showing the existing and proposed fees is attached as **Annex 1**.

1.2 Hackney Carriage & Private Hire

1.2.1 Fee levels for hackney carriage and private hire licensing are subject to various statutory controls. Whilst these controls provide the Council with some discretion as to the level of fee, the cost of a licence must be related to the overall cost of the licensing scheme itself.

1.2.2 Section 53 of the Local Government (Miscellaneous Provisions) Act 1976 provides that, in respect of hackney carriage and private hire drivers, the Council may charge 'such a fee as they consider reasonable with a view to recovering the costs of issue and administration'.

1.2.3 For vehicle (both hackney carriage and private hire) and private hire operators' licences, fee levels are governed by s70 of the 1976 Act. This section allows the Council to charge such fees as may be sufficient in aggregate to cover in whole or in part –

(a) the reasonable cost of carrying out inspections of hackney carriages/private hire vehicles for the purpose of determining whether any such licence should be granted or renewed;

(b) the reasonable cost of providing hackney carriage stands;

(c) any other reasonable administrative or other costs in connection with the above and with the control and supervision of hackney carriage and private hire vehicles.

1.2.4 The cost for an Operator's licence remains fixed as it is still presently high compared with other authorities in Kent.

Fee model

1.2.5 The fee model sheets for the main Taxi fee increase show officer cost and time in the validating, processing, issuing and enforcement cost where applicable. These sheets are shown as **Annex 2**.

Holders for plates

1.2.6 Plate holders have been provided as part of the fee for New Hackney Carriage and Private Hire Vehicle registrations. However due to the number provided not being used, these will no longer be automatically provided for new registration and can be purchased separately.

1.2.7 Knowledge Tests

1.2.8 Tonbridge & Malling Borough Council (TMBC) have not charged for candidates to take the knowledge test. From 1 April 2015 it is proposed to charge a fee to cover the administration and materials used to set up and run these tests.

1.2.9 The charging for a knowledge test is common practice across Kent with a wide range of fees being charged. It is proposed that TMBC charge £25.

1.3 Other licensing & registration fees

1.3.1 A review has also been undertaken of the fees charged for a number of miscellaneous licences/consents, including street trading, animal welfare and acupuncture/ tattooing etc. The proposed fees for 2015/16 are also contained in the table at **Annex 1**.

1.4 Legal Implications

1.4.1 As set out above.

1.5 Financial and Value for Money Considerations

1.5.1 As set out above.

1.6 Risk Assessment

1.6.1 The recommended fee levels have been calculated in order to ensure that the service remains self-financing, whilst at the same time not making a profit. This will minimise the risk of a challenge being made by a third party.

1.7 Equality Impact Assessment

1.7.1 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.

1.8 Recommendations

1.8.1 It is RECOMMENDED that the proposed scale of fees for licences, consents and registrations set out in Annex 1 of this report be adopted with effect from 1 April 2015.

Background papers:

contact: Anthony Garnett 6151

Nil

Adrian Stanfield

Director of Central Services and Monitoring Officer

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Licensing Fee Review for 2015/2016 – Recommended changes

Registration/Licence Type	Current Fee 2014/15	Proposed Fee 2015/16	Notes
Driver licences			
Probationary Badge – Hackney Carriage/Private Hire	35.00	36.00	
Hackney Carriage/Private Hire Licence (3 years)	177.00	180.00	
Dual Hackney Carriage/Private Hire Licence (3 years)	200.00	204.00	
Additional DVLA check if required/original returned		5.00	
Vehicle licences			
Hackney Carriage – (1 year) – New licence *	230.00	219.00	Plate holders not included in 2015/16 pricing Sold separately as required
Hackney Carriage – (1 year) – Renewal **	199.00	202.00	
Private Hire –(1 year) – New licence **	222.00	211.00	
Private Hire –(1 year) – Renewal **	199.00	202.00	
* Includes cost of plates and door insignia ** Includes cost of plates			
Operator licences			
3 Year Licence (1 st time and renewal)	320.00	320.00	
Additional vehicle on an Operator's Licence (over 4 vehicles)	80.00	80.00	
Transfer of vehicle licence			
Transfer within 6 months	59.50	60.50	
Transfer to another vehicle after 6 months from taking out licence – full 12 month licence	202.00	202.00	
Plate exemption certificate	42.00	42.00	
Private Hire Operators			
3 Year Licence and renewal (up to 4 vehicles)	320.00	320.00	
Plus per vehicle (over 4 vehicles)	80.00	80.00	
Insurance plates			
Hackney Carriage Vehicle (first month)	60.00	60.00	

Registration/Licence Type	Current Fee 2014/15	Proposed Fee 2015/16	Notes
Hackney Carriage Vehicle (for each additional month)	18.00	18.00	
Private Hire Vehicle (first month)	46.00	46.00	
Private Hire Vehicle (for each additional month)	16.00	16.00	
Administration charges			
General	40.00	40.00	
Replacement vehicle Plates and admin	20.00	20.00	
Change of name and address / replacement paper or card licences	10.50	10.50	
Plates			
Long External Licence Plate and holder		22.50	
Long External Licence Plate only		6.50	
Long External Licence Plate holder only		16.00	
Square External Licence Plate and holder		20.50	
Square External Licence Plate only		6.50	
Square External Licence Plate holder only		14.00	
Internal Plate and Holder	4.00	4.00	
Internal Plate only	2.00	2.00	
Internal Plate Holder only	2.00	2.00	
Door Insignia (per pair)	8.00	8.00	
Knowledge Test			
Attempting knowledge test		25.00	
Attempting knowledge test again after first failure		25.00	
Pleasure Boats and Boatmen			
Pleasure boats – 1 year (multi-seated)	160.00	160.00	
Pleasure boats – 1 year (other)	31.50	31.50	
Boatmen – 1 year	31.50	31.50	
Scrap Metal Dealers			
Scrap Metal – Mobile Collectors Licence (new and renewal)	265.00	270.00	
Scrap Metal –Site Licence	340.00	346.00	

Registration/Licence Type	Current Fee 2014/15	Proposed Fee 2015/16	Notes
Scrap Metal – Renewal of Site Licence	320.00	326.00	
Animal welfare licences			
Animal welfare/boarding	262.00	267.00	
Home Boarding licence		150.00	
Home Boarding licence renewal		50.00	
Breeding and sale of dogs		204.00	
Pet shop	252.00	256.00	
Riding establishments	345.00	350.00	
Dangerous wild animals	772.00	787.00	
Zoo	731.00	745.00	
Street trading consents - Tonbridge street Trading Control Area:			
Fixed pitch – annual consent	1224.00	1240.00	
Fixed pitch – occasional consent	315.00	319.00	
Other - annual consent	1117.00	1139.00	
Other - occasional consent	57.00	58.00	
Acupuncture, tattooing, ear piercing and electrolysis			
Acupuncture, tattooing, ear piercing and electrolysis (one registration only required)	165.00	168.00	
Additional practitioners at same premises		50.00	
Sex Establishments			
Sex Establishments: sex shop or sex cinema	2000.00	2000.00	
Hypnotism licence			
Hypnotism licence	23.00	24.00	

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Activity	Officer rates per hour						total TMB
	LM	LO	legal	COM	Fin	LM	
LM LO Legal TMB Committee Fin							4 6 6
Dual Driver badge renewals							
telephone costs							£16.80
Documents cost							£0.00
Financial admin							£17.82
production of information documentation / awareness							£24.10
Assistance to applicant	0.1	0.33					£16.80
Check information	0.13	0.3					£0.00
Medical/DBS/DVLA checks	0.25	0.25					£17.82
process application fee							£24.10
load application onto computer					0.1		£6.23
Print card / paper licence	0.12	0.35					£18.73
Office - overheads							£9.34
representations							£0.00
negotiation							£54.50
inspection visit							£0.00
Enforcement							£0.00
determine application							£0.00
sub total	0.6	1.73	0	0			£171.30
hearing to be arranged	2.2	0.5					£159.16
determine application - Hearing	3	1					£569.72
notify relevant persons	0.5	0.5					£51.63
application granted	0.75	0.25					£56.74
update register		0.25					£7.78
hearing & Members allowance							£7.78
sub total	20	2	12	1			£37.24
application rejected - prepare for appeal							1%
appeal hearing (1st Meeting / PTR)							£2,261.38
post appeal hearing							£921.18
total	27.05	8.73	30.03	4.03			£2,195.55
							£174.90
							£418.62
							£1,701.05
							£171.30
							£8.37
							£179.67
							Proposed fee
							Dual Badge (Hackney / Private Hire)
							£204.00

Vehicles - renewals

LM
LO

← Officer rates per hour →

Legal TMB
Committee
Fin

	LM	LO	legal	COM	Fin	LM	LO	legal	COM	Fin	total TMB 4 6 6	
	Time			Cost								
telephone costs												
Documents cost												
Financial admin												
production of information documentation / awareness												
Assistance to applicant	0.1	0.315				£6.53	£9.81	£0.00	£0.00	£0.00		£16.33
Check information	0.13	0.35				£0.00	£0.00	£0.00	£0.00	£0.00		£0.00
Pairing up garage documentation process application fee		0.2				£8.49	£10.90	£0.00	£0.00	£0.00		£19.38
lead application onto computer	0.12	0.35			0.1	£0.00	£6.23	£0.00	£0.00	£0.00		£6.23
Printplates / paper licence	0.143	0.35				£7.83	£10.90	£0.00	£0.00	£0.00		£18.73
contact applicant to clarify details						£9.33	£10.90	£0.00	£0.00	£0.00		£20.23
Office - overheads						£0.00	£0.00	£0.00	£0.00	£0.00		£0.00
Cost of plates						£0.00	£0.00	£0.00	£0.00	£0.00		£8.50
negotiation						£0.00	£0.00	£0.00	£0.00	£0.00		£0.00
inspection visit						£0.00	£0.00	£0.00	£0.00	£0.00		£0.00
Enforcement	0.2	0.2				£13.05	£6.23	£0.00	£0.00	£0.00		£19.28
determine application						£0.00	£0.00	£0.00	£0.00	£0.00		£0.00
sub total	0.693	1.965	0	0	0	£45.23	£61.17	£0.00	£0.00	£0.00		£193.19
hearing to be arranged	2.2	0.5				£143.59	£15.57	£0.00	£0.00	£0.00		£159.16
determine application - Hearing	3	1	3	3		£195.81	£31.13	£212.58	£130.20	£0.00		£569.72
notify relevant persons	0.5	0.5	0.03	0.03		£32.64	£15.57	£2.13	£1.30	£0.00		£51.63
application granted	0.75	0.25				£48.95	£7.78	£0.00	£0.00	£0.00		£56.74
update register		0.25				£0.00	£7.78	£0.00	£0.00	£0.00		£7.78
hearing & Members allowance												
sub total	20	2	12	1		£466.22	£139.00	£214.71	£131.50	£0.00	1%	£837.24
application rejected - prepare for an appeal		0	13	0		£1,305.40	£62.26	£850.32	£43.40	£0.00		£2,261.38
appeal hearing (1st Meeting / PTR)		2.5	2	0		£0.00	£0.00	£921.18	£0.00	£0.00		£921.18
post appeal hearing						£0.00	£77.83	£141.72	£0.00	£0.00		£219.55
total	27.143	8.965	30.03	4.03		£1,771.62	£279.08	£2,127.93	£174.90	£0.00		£3,402.11

Proposed fee

£193.19

£8.37

£201.56

round up

£202.00

Vehicles -new - Private Hire

← Officer rates per hour

	LM	LO	legal	COM	Fin	LM	LO	legal	COM	Fin	total
LM											TMBC
LO											4
Legal TMB											6
Committee											6
Fin											
Cost											
Time											
LM	0.1	0.3				£6.53	£9.34	£0.00	£0.00	£0.00	£15.87
LO	0.075	0.075				£0.00	£2.33	£0.00	£0.00	£0.00	£2.33
legal	0.35	0.35				£9.79	£10.90	£0.00	£0.00	£0.00	£20.69
COM	0.2	0.2			0.1	£0.00	£6.23	£0.00	£0.00	£0.00	£6.23
Fin	0.12	0.345				£0.00	£6.23	£0.00	£0.00	£0.00	£6.23
LM	0.1	0.36				£7.83	£10.74	£0.00	£0.00	£0.00	£18.57
LO						£6.53	£11.21	£0.00	£0.00	£0.00	£17.73
legal						£0.00	£0.00	£0.00	£0.00	£0.00	£0.00
COM											£54.50
Fin											£8.00
LM						£0.00	£0.00	£0.00	£0.00	£0.00	£0.00
LO						£0.00	£0.00	£0.00	£0.00	£0.00	£0.00
legal						£0.00	£0.00	£0.00	£0.00	£0.00	£0.00
COM						£19.58	£9.34	£0.00	£0.00	£0.00	£28.92
Fin						£0.00	£0.00	£0.00	£0.00	£0.00	£0.00
LM	0.77	2.13	0	0	0	£50.26	£66.31	£0.00	£0.00	£0.00	£202.85
LO	2.2	0.5				£143.59	£15.57	£0.00	£0.00	£0.00	£159.16
legal	3	1	3	3		£195.81	£31.13	£212.58	£130.20	£0.00	£569.72
COM	0.5	0.5	0.03	0.03		£32.64	£15.57	£2.13	£1.30	£0.00	£51.63
Fin	-0.75	0.25				£48.95	£7.78	£0.00	£0.00	£0.00	£56.74
LM		0.25				£0.00	£7.78	£0.00	£0.00	£0.00	£7.78
LO											
legal											
COM											
Fin											
LM	20	2	12	1		£471.25	£144.13	£214.71	£131.50	£0.00	£837.24
LO		0	13	0		£1,305.40	£62.26	£850.32	£43.40	£0.00	£2,261.38
legal		2.5	2	0		£0.00	£921.18	£0.00	£0.00	£0.00	£921.18
COM						£0.00	£77.83	£141.72	£0.00	£0.00	£219.55
Fin		9.13	30.03	4.03		£1,776.65	£284.22	£2,127.93	£174.90	£0.00	£3,402.11
LM	27.22						£418.62	£1,701.05			
LO											
legal											
COM											
Fin											
sub total											£202.85
hearing to be arranged											£8.37
determine application - Hearing											£211.22
notify relevant persons											
application granted											
update register											
hearing & Members allowance											
sub total											£202.85
application rejected - prepare for an appeal											1%
appeal hearing (1st Meeting / PTR)											
post appeal hearing											
total											£211.00

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Agenda Item 6

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 7

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 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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