

TONBRIDGE & MALLING BOROUGH COUNCIL



EXECUTIVE SERVICES

Chief Executive

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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
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24 September 2018

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, 2nd October, 2018 commencing at 7.30 pm

Yours faithfully

JULIE BEILBY

Chief Executive

A G E N D A

PART 1 - PUBLIC

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To confirm as a correct record the Minutes of the meeting of Licensing and Appeals Committee held on 19 June 2018

4. Minutes of Panel 11 - 42

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

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The Minutes of the meeting of the Panel held on 7 September 2018 are to follow.

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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

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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 D Keers (Vice-Chairman)

Cllr O C Baldock
Cllr Mrs S M Barker
Cllr M C Base
Cllr Mrs P A Bates
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 M Taylor
Cllr F G Tombolis

Apologies for absence

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Declarations of interest

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TONBRIDGE AND MALLING BOROUGH COUNCIL

LICENSING AND APPEALS COMMITTEE

Tuesday, 19th June, 2018

Present: Cllr D Keers (Vice-Chairman - in the Chair), Cllr M C Base, Cllr M A Coffin, Cllr B T M Elks, Cllr S M King, Cllr H S Rogers, Cllr M Taylor and Cllr F G Tombolis

Apologies for absence were received from Councillors Mrs J A Anderson (Chairman), O C Baldock, Mrs S M Barker, Mrs P A Bates and Mrs B A Brown

PART 1 - PUBLIC

LA 18/58 DECLARATIONS OF INTEREST

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

LA 18/59 MINUTES

RESOLVED: That the Minutes of the meeting of the Licensing and Appeals Committee held on 21 May 2018 be approved as a correct record and signed by the Chairman.

LA 18/60 MINUTES OF PANEL

RESOLVED: That the Minutes of the meeting of the Licensing and Appeals Committee sitting as a Panel held on 17 May 2018 be received and noted.

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

LA 18/61 GAMBLING ACT 2005 - REVISED STATEMENT OF PRINCIPLES FOR GAMBLING

The report of the Director of Central Services and Monitoring Officer presented a revised Statement of Principles (Policy) for Gambling under the Gambling Act 2005 for the period 31 January 2019 to 30 January 2022. The draft statement had been prepared having regard to guidance from the Gambling Commission and the report highlighted the licensing objectives, the responsible authorities for the Borough and the process for consultation over a twelve week period and adoption of the new policy.

RESOLVED: That the draft policy set out at Annex 1 to the report be approved for consultation.

MATTERS SUBMITTED FOR INFORMATION

LA 18/62 CHANGES TO ANIMAL LICENSING LEGISLATION

The report of the Director of Central Services and Monitoring Officer advised that the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 were due to come into force on 1 October 2018. The new legislation would introduce an updated licensing system for five activities involving animals, requiring businesses undertaking such activities to meet modern minimum animal welfare standards. It was noted that a more detailed report would be considered at the next meeting following the issue of government guidance on the new licensing system.

RESOLVED: That the report be received and noted.

LA 18/63 EXCLUSION OF PRESS AND PUBLIC

There were no items considered in private.

The meeting ended at 7.51 pm

TONBRIDGE AND MALLING BOROUGH COUNCIL

LICENSING AND APPEALS PANEL

Friday, 8th June, 2018

Present: Cllr D Keers (Chairman), Cllr Mrs F A Kemp and Cllr M Taylor

Together with representatives of the Licensing Authority

PART 1 - PUBLIC

LA 18/46 DECLARATIONS OF INTEREST

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

LA 18/47 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 18/48 REVIEW OF A PROBATIONARY PRIVATE HIRE DRIVER'S LICENCE - CASE NO 9/2018

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

The Panel was asked to consider whether the holder of a Probationary Private Hire Driver's Licence should have his licence suspended or revoked for failing to wear his driver's badge so that it was plainly and distinctly visible in contravention of s.54(2)(a) of the Local Government (Miscellaneous Provisions) Act 1976. The licence holder had been reported to the Panel following an enforcement exercise in Maidstone High Street at 02.40 hours on 22 April 2018 when he was found not wearing a driver's badge whilst working as a private hire driver and not in possession of a valid driver's badge.

The Panel found as a matter of fact that the badge holder's probationary private hire driver's licence had been extended for a further six months from 27 March 2018 at the request of his employer. The Panel found

that the driver had failed to collect his new badge from the Council's offices at Gibson Drive and had worked as a private hire driver between 27 March and 23 April 2018 on at least nineteen occasions without a valid driver's badge. The Panel was, therefore, satisfied that the badge holder had contravened s.54(2)(a) of the Local Government (Miscellaneous Provisions) Act 1976.

The driver acknowledged that he had not picked up his badge from the Council's offices. He stated that he was aware that the new badge had been issued but had been unable to collect it because of difficult personal circumstances involving his children.

In its deliberations the Panel took into account Appendix G of the Council's Taxi Licensing and Enforcement Policy and Section 4 of the Tonbridge and Malling Borough Council Hackney Carriage and Private Hire Policy. After careful consideration of the circumstances the Panel

RESOLVED: That

- (1) the Driver be sent a formal warning letter; and
- (2) the Driver be issued with 12 penalty points which will stay on his record for 24 months from the date of this Hearing.

The meeting ended at 10.50 am
having commenced at 10.00 am

TONBRIDGE AND MALLING BOROUGH COUNCIL

LICENSING AND APPEALS PANEL

Friday, 8th June, 2018

Present: Cllr D Keers (Chairman), Cllr Mrs F A Kemp and Cllr M Taylor

Together with representatives of the Licensing Authority

PART 1 - PUBLIC

LA 18/49 DECLARATIONS OF INTEREST

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

LA 18/50 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 18/51 REVIEW OF PRIVATE HIRE DRIVER'S LICENCE – CASE NO 10/2018

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

The Panel was asked to consider whether the holder of a Private Hire Driver's Licence should have his licence suspended or revoked under s.61(1)(b) of the Local Government (Miscellaneous Provisions) Act 1976 on the ground of any other cause, namely for using a mobile 'phone whilst driving. The licence holder had been reported to the Panel following an enforcement exercise in Maidstone High Street on 22 April 2018 when he was seen driving his private hire vehicle whilst using his mobile phone. The Panel was advised that this was a criminal offence under s.110 of the Road Vehicles (Construction and Use) Regulations 1986, attracting a fine of up to £1,000 and 3 to 6 penalty points.

The driver admitted that he had been using his mobile 'phone whilst driving and said that it was a mistake. He apologised to the Panel and promised not to make the mistake again.

The Panel found as a matter of fact that the driver had been using his mobile 'phone while driving and that he had expressed remorse. Nonetheless, the Panel made it clear to the licence holder that it took this matter extremely seriously and advised him that the Council was committed to ensuring the safety of the public and expected higher standards from its licensed drivers.

In its deliberations the Panel took into account Appendix G of the Council's Taxi Licensing and Enforcement Policy and Section 4 of the Tonbridge and Malling Borough Council Hackney Carriage and Private Hire Policy. After careful consideration of the circumstances the Panel

RESOLVED: That

- (1) the Private Hire Driver's Licence be suspended for a period of six months; and
- (2) the Driver be issued with 12 penalty points which will stay on his record for 24 months from the date of this Hearing.

The meeting ended at 11.46 am
having commenced at 11.00 am

TONBRIDGE AND MALLING BOROUGH COUNCIL

LICENSING AND APPEALS PANEL

Friday, 8th June, 2018

Present: Cllr Mrs F A Kemp (Chairman), Cllr M A Coffin and Cllr M Taylor

Together with representatives of the Licensing Authority

PART 1 - PUBLIC

LA 18/52 DECLARATIONS OF INTEREST

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

LA 18/53 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 18/54 REVIEW OF DUAL DRIVER'S LICENCE - CASE NO 12/2018

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

The Panel was asked to consider whether the holder of a Dual Hackney Carriage and Private Hire Driver's Licence should have his licence suspended or revoked under s.61(1)(a) of the Local Government (Miscellaneous Provisions) Act 1976 on the grounds that he was playing loud music in his vehicle in contravention of the Council's Taxi Licensing and Enforcement Policy and had failed to co-operate with the Council's Senior Licensing Officer during an enforcement exercise in Maidstone High Street in the early hours of the morning of 22 April 2018.

The Director of Central Services and Monitoring Officer advised the Panel that he had received an email from the licence holder on 7 June requesting an adjournment of the Hearing on the ground that he only received the report to the Panel two days previously.

In the circumstances the Panel

RESOLVED: That consideration of Case No 12/2018 in respect of the review of Dual Hackney Carriage and Private Hire Driver's Licence Number 16/01351/DUALDL be DEFERRED to a meeting of the Licensing and Appeals Panel to be held on 22 June 2018.

The meeting ended at 12.01 pm
having commenced at 12 noon

TONBRIDGE AND MALLING BOROUGH COUNCIL

LICENSING AND APPEALS PANEL

Friday, 15th June, 2018

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

Together with representatives of the Licensing Authority, Mr D J House (Applicant), Mr F Prescott (former premises licence holder), Ms E Keefe (Planning Services) and Councillor M Base (Interested Party)

PART 1 - PUBLIC

LA 18/55 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 18/56 APPLICATION FOR THE VARIATION OF A PREMISES LICENCE AT THE HENGIST VILLAGE RESTAURANT AND GARDENS, 7-9 HIGH STREET, AYLESFORD

The Panel gave consideration to an application made by Mr David John House under section 34 of the Licensing Act 2003 in respect of premises known as "Hengist Village Restaurant and Gardens" at 7-9 High Street, Aylesford. The application related to the variation of timings for the sale of alcohol authorised by a current licence.

The Panel gave careful consideration to the written report of the Director of Central Services and Monitoring Officer, the application set out at Annex 2 to the report and the written representations received during the statutory consultation period as set out at Annex 4 (General Representations) and Annex 5 (Responsible Authorities) to the report.

The Panel listened carefully to the representations made by Mr D House and Mr F Prescott in support of the application and by Councillor M Base (representing himself and other local residents who had made General Representations). The Panel also heard from Ms E Keefe, Development Control Manager (Responsible Authority).

The Panel was mindful of its obligations under section 35(3) of the Licensing Act 2003 which stated that, having regard to the relevant

representations, the Licensing Authority must take such of the steps set out in section 35(4) as it considers appropriate for the promotion of the licensing objectives. The Panel took into consideration Chapters 2 and 9 of the guidance dated April 2018 provided by the Secretary of State under s.182 of the Licensing Act 2003 as well as the Council's own Statement of Licensing Policy.

The Panel took into account all of the representations from local residents, both written and oral, regarding noise and the potential for increased public nuisance contrary to the licensing objectives. The Panel was also mindful of the applicant's stated objectives for the increase in hours, namely to increase his business, in particular in relation to events, and of the consequences of this on the prevention of public nuisance objective. The Panel was satisfied that the licensing objectives were met.

The Panel suggested that the premises licence holder bear in mind the original conditions of the licence and planning permissions. The Panel recommended that steps be taken to improve the relationships within the village with residents who live near the Hengist Village Restaurant and Gardens.

In accordance with the objectives contained within the Licensing Policy of Tonbridge and Malling Borough Council, the Licensing and Appeals Committee, sitting as a Panel

RESOLVED: That the application to vary a Premises Licence be granted subject to the mandatory conditions set out in the Licensing Act 2003, the Conditions shown at Annex 3 of the current licence issued on 16 April 2018 and to the following:-

Section J	<p>Supply of alcohol for consumption both on and off the premises –</p> <p>Monday to Friday from 11:00 hours until 24:00 hours. Saturday and Sunday from 10:00 hours until 24:00 hours.</p> <p>New Year's Eve to extend the sale of alcohol until 2am with food.</p>
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LA 18/57 EXCLUSION OF PRESS AND PUBLIC

There were no items considered in private.

The meeting ended at 11.06 am
having commenced at 10.00 am

TONBRIDGE AND MALLING BOROUGH COUNCIL

LICENSING AND APPEALS PANEL

Friday, 22nd June, 2018

Present: Cllr M A Coffin (Chairman), Cllr O C Baldock and Cllr Mrs B A Brown

Together with representatives of the Licensing Authority and Kent County Council.

PART 1 - PUBLIC

LA 18/64 DECLARATIONS OF INTEREST

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

LA 18/65 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 18/66 REVIEW OF PRIVATE HIRE OPERATOR'S LICENCE – CASE NO 11/2018

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

The Panel was asked to consider whether any action should be taken against a current Private Hire Operator following the receipt of information from Kent County Council that a driver had been sent to carry out a school run but had been unable to produce a private hire driver's licence when challenged by a KCC School and Client Transport Inspector.

The Panel had regard to the report of the Director of Central Services and Monitoring Officer, the statement made by the KCC School and Client Transport Officer (as set out at Annex 2 to the report) and the Tonbridge and Malling Hackney Carriage and Private Hire Licensing Policy in respect of private hire operators. The Panel noted that the

Policy required that an Operator should ensure that every driver engaged by him had obtained a private hire driver's licence from the same Licensing Authority which had issued the private hire operator's licence and that the driver wore the badge in a conspicuous place at all times whilst available for bookings.

The Panel listened carefully to the explanation of the circumstances which had led to the Operator allowing an unlicensed driver to carry out a school run. The Operator explained that he believed that his driver did have the appropriate driver's licence but had subsequently realised that he had confused a driver's carer's badge with a driver's badge issued by the Council and had, therefore, made a mistake. The Operator further explained that, due to a family bereavement, the usual office administrator had been absent and that this had contributed to the error.

The Panel was satisfied that the licence holder had operated a vehicle as a private hire vehicle when the driver of that vehicle did not have a current private hire vehicle driver's licence in contravention of s.46(1)(e)(ii) of the Local Government (Miscellaneous Provisions) Act 1976 and, on that basis, found that it was appropriate to suspend his private hire operator's licence. The Panel, therefore

RESOLVED: That Private Hire Operator's Licence Number 171 OPER be suspended for 1 month.

The meeting ended at 11.01 am
having commenced at 10.00 am

TONBRIDGE AND MALLING BOROUGH COUNCIL

LICENSING AND APPEALS PANEL

Friday, 22nd June, 2018

Present: Cllr M A Coffin (Chairman), Cllr O C Baldock and Cllr Mrs B A Brown

Together with representatives of the Licensing Authority and Kent County Council.

PART 1 - PUBLIC

LA 18/67 DECLARATIONS OF INTEREST

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

LA 18/68 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 18/69 APPLICATION FOR A PROBATIONARY PRIVATE HIRE DRIVER'S LICENCE - CASE NO 14/2018

(Reasons: 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 granted following the receipt of information from Kent County Council that the Applicant had been driving a private hire vehicle in order to carry out a school contract without a private hire driver's licence.

The Panel had regard to the report of the Director of Central Services and Monitoring Officer, the statement made by the KCC School and Client Transport Inspector (as set out at Annex 2 to the report) and the Tonbridge and Malling Hackney Carriage and Private Hire Licensing Policy. The Panel gave careful consideration to the representations made by the Applicant and his Mentor in respect of the circumstances

which had led the Applicant to drive a licensed vehicle whilst being unlicensed. The Applicant acknowledged that he had driven a private hire vehicle and admitted that he had made a mistake. He apologised to the Panel for that mistake and informed them that, as soon as he realised that he did not hold the appropriate licence, he had made it clear that he would not carry out any more private hire work. The Panel noted that the Applicant had considerable experience in the motor trade and had worked as a driver for a supermarket chain for a number of years and also drove for a charity. The Panel accepted that the Applicant had a clean record and had shown remorse for his mistake. In the circumstances the Panel was satisfied that the Applicant was a 'fit and proper' person to hold a Probationary Private Hire Driver's Licence. For these reasons, therefore, the Panel

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

The meeting ended at 12.08 pm
having commenced at 11.15 am

TONBRIDGE AND MALLING BOROUGH COUNCIL

LICENSING AND APPEALS PANEL

Friday, 22nd June, 2018

Present: Cllr M A Coffin (Chairman), Cllr O C Baldock and Cllr Mrs B A Brown

Together with representatives of the Licensing Authority

PART 1 - PUBLIC

LA 18/70 DECLARATIONS OF INTEREST

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

LA 18/71 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 18/72 REVIEW OF DUAL DRIVER'S LICENCE - CASE NO 12/2018

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

The Panel was asked to consider whether the holder of a Dual Hackney Carriage and Private Hire Driver's Licence should have his licence suspended or revoked under s.61(1)(a) of the Local Government (Miscellaneous Provisions) Act 1976 on the grounds that he was playing loud music in his vehicle in contravention of the Council's Taxi Licensing and Enforcement Policy and had failed to co-operate with the Council's Senior Licensing Officer during an enforcement exercise in Maidstone High Street in the early hours of the morning of 22 April 2018.

The Director of Central Services and Monitoring Officer advised the Panel that he had received an email from the licence holder on 21 June requesting an adjournment of the Hearing on the ground that he was ill and had a 'Sick Note'.

In the circumstances the Panel

RESOLVED: That consideration of Case No 12/2018 in respect of the review of Dual Hackney Carriage and Private Hire Driver's Licence Number 16/01351/DUALDL be DEFERRED to a meeting of the Licensing and Appeals Panel to be held on 25 July 2018.

The meeting ended at 12.32 pm
having commenced at 12.30 pm

TONBRIDGE AND MALLING BOROUGH COUNCIL

LICENSING AND APPEALS PANEL

Wednesday, 25th July, 2018

Present: Cllr D Keers (Chairman), Cllr Mrs J A Anderson and
Cllr Mrs B A Brown

Together with representatives of the Licensing Authority

PART 1 - PUBLIC

LA 18/73 DECLARATIONS OF INTEREST

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

LA 18/74 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 18/75 REVIEW OF HACKNEY CARRIAGE DRIVER'S LICENCE –
CASE NO 15/2018**

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

The Panel was asked to consider whether any action should be taken against a current holder of a Hackney Carriage Driver's Licence who had failed to accept penalty points for failure to comply with a requirement of an authorised officer of the Council or police officer and failure to display insignia on exterior of the two front doors of the vehicle.

The Panel had regard to the report of the Director of Central Services and Monitoring Officer and to Sections 4.8.1, 14.9.1 and 16.5.1 of the Tonbridge and Malling Hackney Carriage and Private Hire Licensing Policy.

The Panel listened carefully to the representations made by the Driver but found that he had contravened Section 61 of the Local Government (Miscellaneous Provisions) Act 1976. The Panel was satisfied that the Driver had failed to meet with Council Officers when required to do so and had failed to accept or respond to the offer of penalty points on his licence.

For these reasons the Panel, therefore

RESOLVED: That Hackney Carriage Driver's Licence Number 17/01915/HCDL (Badge No: 343) be suspended for a period of two weeks and 12 penalty points be added to the licence.

The meeting ended at 10.46 am
having commenced at 10.00 am

TONBRIDGE AND MALLING BOROUGH COUNCIL

LICENSING AND APPEALS PANEL

Wednesday, 25th July, 2018

Present: Cllr D Keers (Chairman), Cllr Mrs J A Anderson and
Cllr Mrs B A Brown

Together with representatives of the Licensing Authority

PART 1 - PUBLIC

LA 18/76 DECLARATIONS OF INTEREST

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

LA 18/77 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 18/78 APPLICATION FOR A PROBATIONARY PRIVATE HIRE DRIVER'S
LICENCE - CASE NO 16/2018**

**(Reasons: 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 granted following the receipt of information from the Disclosure and Barring Service (DBS).

The Panel was advised that the DBS Certificate had disclosed that the Applicant had a Caution dated 14 September 2017 – Theft by Employee on 28 July 2017, Theft Act 1968 S.1. The Panel noted that the Applicant had declared the Caution for theft on the questionnaire submitted with the application.

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

- (1) that Section 1.4.4 of the Tonbridge and Malling Borough Council Hackney Carriage and Private Hire Policy stated that public safety was paramount when processing a prospective candidate to ensure that the applicant was a 'Fit and Proper' person to hold a licence;
- (2) that Section 4.7.6 of the Policy stated that the licence was conditional upon there being no adverse information revealed on the DBS disclosure which would render the applicant not 'Fit and Proper';
- (3) that Section 4.8.3 of the Policy regarding 'Fit and Proper' required that the Council consider each case on its merits;
- (4) that in respect of Cautions, Section 4.8.4 of the Policy stated that the Council would have regard to the class and age of the offence and the age of the applicant when the offence occurred when considering their relevance to an application; and
- (5) that in respect of Offences of Dishonesty, Section 10.3.1 of the Policy stated that, in general, a period of 4 years free of conviction was required before an application was likely to be considered.

The Panel listened carefully to the explanation given by the Applicant of the circumstances surrounding the Caution for Theft and concluded that, as the offence had taken place within the last year and there was no extenuating circumstance or compelling reason to deviate from the Council's Hackney Carriage and Private Hire Policy, the Applicant was not a fit and proper person to hold a Probationary Private Hire Driver's Licence. For these reasons the Panel, therefore

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

The meeting ended at 11.40 am
having commenced at 11.00 am

TONBRIDGE AND MALLING BOROUGH COUNCIL

LICENSING AND APPEALS PANEL

Wednesday, 25th July, 2018

Present: Cllr D Keers (Chairman), Cllr Mrs J A Anderson and
Cllr Mrs B A Brown

Together with representatives of the Licensing Authority

PART 1 - PUBLIC

LA 18/79 DECLARATIONS OF INTEREST

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

LA 18/80 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 18/81 APPLICATION FOR A PROBATIONARY PRIVATE HIRE DRIVER'S
LICENCE - CASE NO 17/2018**

**(Reasons: 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 granted following the receipt of information from the Disclosure and Barring Service (DBS).

The Panel was advised that the DBS Certificate had disclosed that the Applicant had a Conviction dated 15 March 2013 for Destroy or Damage Property (value of Damage £5000 or less – offence against Criminal Damage Act 1971 only) Criminal Damage Act s.1(1). The Panel noted that the Applicant had not declared the Conviction on the questionnaire submitted with the application.

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

- (1) that Section 1.4.4 of the Tonbridge and Malling Borough Council Hackney Carriage and Private Hire Policy stated that public safety was paramount when processing a prospective candidate to ensure that the applicant was a 'Fit and Proper' person to hold a licence;
- (2) that in respect of the relevance of previous convictions, Section 4.8.3 of the Policy required that the Council had regard to whether convictions were spent or unspent, class of the offences, age of the offences and the apparent seriousness, as gauged by the penalty; and
- (3) that Section 10.4.1 stated that applications would normally be refused where the conviction was less than 8 years old.

The Panel gave careful consideration to the application and the DBS Certificate and listened carefully to the Applicant's representations about his current circumstances, his explanation regarding the conviction and his failure to disclose the previous conviction on his application. The Panel took particular note of Section 10.4 of the Policy and found that there were no compelling or extenuating circumstances to justify deviation from the Council's Policy. The Panel concluded that the Applicant was not a fit and proper person to hold a Probationary Private Hire Driver's Licence. For these reasons the Panel, therefore

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

The meeting ended at 12.42 pm
having commenced at 12 noon

TONBRIDGE AND MALLING BOROUGH COUNCIL

LICENSING AND APPEALS PANEL

Wednesday, 25th July, 2018

Present: Cllr D Keers (Chairman), Cllr Mrs J A Anderson and
Cllr Mrs B A Brown

Together with representatives of the Licensing Authority

PART 1 - PUBLIC

LA 18/82 DECLARATIONS OF INTEREST

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

LA 18/83 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 18/84 REVIEW OF DUAL DRIVER'S LICENCE - CASE NO 12/2018

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

The Panel was asked to consider whether the holder of a Dual Hackney Carriage and Private Hire Driver's Licence should have his licence suspended or revoked under s.61(1)(a) of the Local Government (Miscellaneous Provisions) Act 1976 on the grounds that he was playing loud music in his vehicle in contravention of the Council's Taxi Licensing and Enforcement Policy and had failed to co-operate with the Council's Senior Licensing Officer during an enforcement exercise in Maidstone High Street in the early hours of the morning of 22 April 2018.

The Panel was reminded that the case had previously been scheduled to be heard on 6 June and 22 June but had been deferred on each occasion as the Driver was unavailable. The Panel noted that the Driver had indicated that he would not be attending the Hearing and had been advised that the case would be heard in his absence.

The Panel had regard to the report of the Director of Central Services and Monitoring Officer and found the following:-

- (1) that the Driver had failed to comply with the Local Government (Miscellaneous Provisions) Act 1976 in that he failed, without reasonable excuse, to comply with a requirement properly made to him by the Senior Licensing Officer; and
- (2) that the Driver had failed to comply with s.60(1)(c) of the Local Government (Miscellaneous Provisions) Act 1976 - Any Other Reasonable Cause in that he had played very loud music in his vehicle in contravention of the Borough Council's Hackney Carriage and Private Hire Policy.

For these reasons the Panel

RESOLVED: That Dual Hackney Carriage and Private Hire Driver's Licence Number 16/01351/DUALDL be SUSPENDED for a period of 4 weeks.

The meeting ended at 1.41 pm
having commenced at 1.00 pm

TONBRIDGE AND MALLING BOROUGH COUNCIL

LICENSING AND APPEALS PANEL

Friday, 27th July, 2018

Present: Cllr Mrs F A Kemp (Chairman), Cllr O C Baldock and Cllr R V Roud

Together with representatives of the Licensing Authority

PART 1 - PUBLIC

LA 18/85 DECLARATIONS OF INTEREST

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

LA 18/86 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 18/87 APPLICATION FOR A PROBATIONARY PRIVATE HIRE DRIVER'S LICENCE - CASE NO 18/2018

(Reasons: 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 granted following receipt of information from the Disclosure and Barring Service (DBS).

The Panel was advised that the DBS Certificate had disclosed that the Applicant had Convictions dated 14 March 2001 and 11 April 2008 relating to the export, supply and possession of Class A drugs.

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

- (1) that Section 1.4.4 of the Tonbridge and Malling Borough Council Hackney Carriage and Private Hire Policy stated that public safety

was paramount when processing a prospective candidate to ensure that the applicant was a 'Fit and Proper' person to hold a licence;

- (2) that in respect of the relevance of previous convictions, Section 4.8.3 of the Policy required that the Council had regard to whether convictions were spent or unspent, class of the offences, age of the offences and the apparent seriousness, as gauged by the penalty; and
- (3) that Section 10.15.3 stated that an application would normally be refused where the conviction had resulted in imprisonment exceeding 30 months.

The Panel gave careful consideration to the Application and the DBS Certificate, listened carefully to the Applicant's representations about his current circumstances and his explanation regarding the convictions and concluded that the Applicant was a fit and proper person to hold a Probationary Private Hire Driver's Licence. For these reasons the Panel, therefore

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

The meeting ended at 10.34 am
having commenced at 10.00 am

TONBRIDGE AND MALLING BOROUGH COUNCIL

LICENSING AND APPEALS PANEL

Friday, 27th July, 2018

Present: Cllr Mrs F A Kemp (Chairman), Cllr O C Baldock and Cllr R V Roud

Together with representatives of the Licensing Authority

PART 1 - PUBLIC

LA 18/88 DECLARATIONS OF INTEREST

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

LA 18/89 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 18/90 APPLICATION FOR A PROBATIONARY PRIVATE HIRE DRIVER'S LICENCE - CASE NO 19/2018

(Reasons: 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 granted following receipt of information from the Disclosure and Barring Service (DBS)

The Panel was advised that the DBS Certificate had disclosed that the Applicant had a Conviction dated 18 May 2011 for Battery – Criminal Justice Act 1988 – Community Order – unpaid work requirement 60 hours, compensation £50.00 and costs £45.00.

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

- (1) that Section 1.4.4 of the Tonbridge and Malling Borough Council Hackney Carriage and Private Hire Policy stated that public safety was paramount when processing a prospective candidate to ensure that the applicant was a 'Fit and Proper' person to hold a licence;
- (2) that in respect of the relevance of previous convictions, Section 4.8.3 of the Policy required that the Council had regard to whether convictions were spent or unspent, class of the offences, age of the offences and the apparent seriousness, as gauged by the penalty; and
- (3) that Section 10.4.1 stated that applications would normally be refused where the conviction was less than 8 years old prior to the date of the application.

The Panel gave careful consideration to the application and the DBS Certificate and listened carefully to the Applicant's representations about his current circumstances and to his explanation regarding the conviction. In the circumstances the Panel was satisfied that the Applicant was a fit and proper person to hold a Probationary Private Hire Driver's Licence. For these reasons the Panel, therefore

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

The meeting ended at 11.23 am
having commenced at 11.00 am

TONBRIDGE AND MALLING BOROUGH COUNCIL

LICENSING AND APPEALS PANEL

Friday, 3rd August, 2018

Present: Cllr D Keers (Chairman), Cllr Mrs J A Anderson and
Cllr Mrs B A Brown

Following an apology for absence received from Councillor O C Baldock prior to meeting Councillor Mrs Anderson had been appointed to serve on the Panel

Together with representatives of the Licensing Authority

PART 1 - PUBLIC

LA 18/91 DECLARATIONS OF INTEREST

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

LA 18/92 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 18/93 APPLICATION FOR A PROBATIONARY PRIVATE HIRE DRIVER'S LICENCE - CASE NO 20/2018

(Reasons: 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 granted following the receipt of information from the Driver and Vehicle Licensing Agency (DVLA).

The Panel was advised that the response to the DVLA data release mandate form had disclosed that the Applicant had 6 Penalty Points on his Driving Licence an Offence dated 4 October 2017 – IN14 Causing or permitting offences. Using a vehicle uninsured against Third Party risks.

The Panel noted that the Applicant had declared the offence on the questionnaire submitted with the application.

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

- (1) that Section 1.4.4 of the Tonbridge and Malling Borough Council Hackney Carriage and Private Hire Policy stated that public safety was paramount when processing a prospective candidate to ensure that the applicant was a 'Fit and Proper' person to hold a licence;
- (2) that Section 4.8.3 of the Policy regarding 'Fit and Proper' required that the Council consider each case on its merits;
- (3) that in respect of Cautions and Endorsable Fixed Penalties, Section 10.2.7 of the Policy stated that formal cautions and endorsable fixed penalties should be treated as though they were convictions and must be disclosed; and
- (4) that Section 12.7.2 of the Policy stated that, in particular, an application would normally be refused where the applicant has 6 or more penalty points on his DVLA licence (whether or not the applicant was convicted by a court for the offences for which the points were imposed).

The Panel listened carefully to the explanation given by the Applicant of the circumstances which led him to accept six penalty points from the DVLA and reached the conclusion that there were no compelling or extenuating circumstances to justify deviation from the Council's Hackney Carriage and Private Hire Policy. The Panel felt that causing or permitting a vehicle to be used whilst uninsured posed a risk to the public and that public safety was a paramount concern when considering the licensing of taxi and private hire drivers. In the circumstances the Panel reached the conclusion that the Applicant was not a fit and proper person to hold a Probationary Private Hire Driver's Licence. For these reasons the Panel, therefore

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

The meeting ended at 10.43 am
having commenced at 10.10 am

TONBRIDGE AND MALLING BOROUGH COUNCIL

LICENSING AND APPEALS PANEL

Friday, 3rd August, 2018

Present: Cllr D Keers (Chairman), Cllr Mrs J A Anderson and Cllr Mrs B A Brown

Following an apology for absence received from Councillor O C Baldock prior to the meeting Councillor Mrs Anderson had been appointed to serve on the Panel

Together with representatives of the Licensing Authority

PART 1 - PUBLIC

LA 18/94 DECLARATIONS OF INTEREST

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

LA 18/95 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 18/96 APPLICATION FOR A PROBATIONARY PRIVATE HIRE DRIVER'S LICENCE - CASE NO 21/2018

(Reasons: 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 granted following the receipt of information from the Driver and Vehicle Licensing Agency (DVLA) and the Disclosure and Barring Service (DBS).

The Panel was advised that the response to the DVLA data release mandate form had disclosed that the Applicant had 3 Penalty Points on his Driving Licence for an Offence dated 9 December 2014 – CD10

Driving without due care and attention. The Panel noted that the Applicant had declared the offence on the questionnaire submitted with the application.

The Panel was advised that the DBS Certificate had disclosed that the Applicant had a Conviction dated 30 October 2015 for Failing to give name and address after accident on 3 February 2015 – Road Traffic Act 1988 S.170(4); Failing to report accident on 3 February 2015 – Road Traffic Act 1988 S.170(4) and Drive a mechanically propelled vehicle on a road/in a public place without due care and attention on 3 February 2015 – Road Traffic Act 1988 S.3. The Panel noted that the Magistrates Court had imposed the following: Fine £625; Costs £620; Disqualification from driving – Discretionary 6 months from 30/10/2015 and a Victim Surcharge of £63. It was noted that the DVLA report had disclosed the offence AC10 – Failing to stop after an accident – Date of offence: 3 February 2015 (no points issued).

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

- (1) that Section 10.2.2 of the Tonbridge and Malling Borough Council Hackney Carriage and Private Hire Policy stated that the overriding consideration was the safety of the public;
- (2) that Section 4.8.3 of the Policy regarding 'Fit and Proper' required that the Council consider each case on its merits;
- (3) that in respect of the relevance of previous convictions, Section 4.8.5 of the Policy required that the Council had regard to the class, age and seriousness of the offence;
- (4) that in respect of Cautions and Endorsable Fixed Penalties, Section 10.2.7 of the Policy stated that formal cautions and endorsable fixed penalties should be treated as though they were convictions and must be disclosed; and
- (5) that in respect of Major Traffic Offences Section 10.8.3 of the Policy stated that more than one conviction for this type of offence within the last 5 years would likely merit refusal of an application.

The Panel gave careful consideration to the application, the DBS Certificate and the DVLA Drivers Report and listened carefully to the Applicant's explanation of the facts and circumstances which led to the convictions and the endorsement of his DVLA Driving Licence. The Panel took particular note of Sections 10.2.2 and 10.8.3 of the Council's Policy and reached the conclusion that there were no compelling or extenuating circumstances to justify deviation from the Council's Hackney Carriage and Private Hire Policy by granting a licence to someone with convictions for Major Traffic Offences.

In the circumstances the Panel reached the conclusion that the Applicant was not a fit and proper person to hold a Probationary Private Hire Driver's Licence. For these reasons the Panel, therefore

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

The meeting ended at 11.38 am
having commenced at 11.04 am

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TONBRIDGE & MALLING BOROUGH COUNCIL

LICENSING & APPEALS COMMITTEE

02 October 2018

Report of the Director of Central Services and Monitoring Officer

Part 1- Public

Matters for Recommendation to Council

1 GAMBLING ACT 2005 – STATEMENT OF PRINCIPLES FOR GAMBLING

1.1 Executive Overview

- 1.1.1 Section 349 of the Gambling Act 2005 requires all Licensing Authorities to prepare and publish a statement of the principles that they propose to apply in exercising their functions under the Act during the three year period to which the policy applies.
- 1.1.2 The Council's current Statement of Principles for the Gambling Act 2005 took effect from 14 January 2016 and will run until 14 January 2019.
- 1.1.3 In preparing a statement, the Council has had regard to guidance issued by the Gambling Commission.
- 1.1.4 The proposed Gambling Act 2005 Statement of Principles (Policy) is due for publication on the 31 January 2019 and went out for consultation for twelve weeks from the 22 June 2018 until 31 August 2018. This is attached as **Annex 1**
- 1.1.5 Only one Representation has been received from HM Revenue & Customs informing us of a new address to use as a Responsible Authority.

1.2 Background

- 1.2.1 The Gambling Act 2005 replaced most of the existing law about gambling in Great Britain and put in place an improved, more comprehensive structure of gambling regulation. This included a new structure of flexible protection for children and vulnerable adults and, in particular, brings the burgeoning Internet gaming sector within British regulation. It created a new independent regulatory body, the Gambling Commission, which is the national regulator for commercial gambling in Great Britain.

1.2.2 The licensing objectives:

- preventing gambling from being a source of crime or disorder, being associated with crime or disorder, or being used to support crime;
- ensuring that gambling is conducted in a fair and open way; and
- protecting children and other vulnerable persons from being harmed or exploited by gambling

1.2.3 Local authorities issue premises licences for:

- Casinos
- Betting Offices and Race Tracks
- Bingo Clubs
- Adult Gaming Centres
- Family Entertainment Centres

1.2.4 Local authorities Issue permits for:

- Gaming machine in members' clubs
- Gaming in members' clubs
- Unlicensed Family Entertainment Centres (Category D machines only)
- Prize gaming

1.2.5 In addition, Local authorities also issues:

- Temporary Use Notices
- Provisional Statements
- Undertake inspections and enforce the conditions on the licences, permits and notices issued

1.2.6 The categories under the Gambling Act 2005 are:

- Casinos
- Commercial Bingo Clubs
- Licensed Betting Premises
- Gaming Machine Premises
- Horse and dog racecourses

1.3 Consultation

1.3.1 The following process steps enabled development of this policy

Draft consultation agreed at the Licensing and Appeals Committee	19 June 2018
Public Consultation	22nd June 2018 until 31 st August 2018
Licensing and Appeals Committee agrees the policy and recommends to Full Council for adoption	2 nd October 2018
Full Council adopt policy	30 th October 2018
New Policy comes into force	15 January 2019

1.4 Representations

1.4.1 Only one Representation has been received from HM Revenue & Customs informing us of a new address to use as a Responsible Authority.

Excise Processing Team
HM Revenue and Customs
BX9 1GL
United Kingdom

1.4.2 This change is shown in **Annex 1** on page 9 under Responsible Authorities.

1.5 Legal Implications

1.5.1 Under the Gambling Act 2005, the Licensing Authority Statement of Policy will last for a maximum of three years.

In preparing a statement or revision of the Statement of Policy, the Council is required to consult the Chief Officer of Police, together with representatives of local gambling trade and others likely to be affected by the exercise of the Council's functions under the Act.

1.5.2 The policy must be approved by Full Council on the recommendation of the Licensing and Appeals Committee. Once adopted, the Statement must be published & advertised in accordance with specific provisions set out in the Gambling Act 2005 (Licensing Authority Policy Statement) (England and Wales) Regulations 2006.

1.6 Financial and Value for Money Considerations

1.6.1 Fee levels for licences and permits are set by the Licensing Authority.

1.7 Equality Impact Assessment

1.7.1 There is no perceived impact on end users.

1.8 Recommendations

That the draft Statement of consultation, attached as **Annex A**, be approved

Background papers:

Existing Policy

Gambling Act 2005

Gambling Commission Web site

contact:

Anthony Garnett 6151

Katie Shipman 6027

Adrian Stanfield

Director of Central Services and Monitoring Officer

STATEMENT OF PRINCIPLES FOR GAMBLING

UNDER THE
SECTION 349 OF THE GAMBLING ACT 2005

Effective from: 15 January 2019 – 30 January 2022

DRAFT COPY FOR USE DURING CONSULTATION

Tonbridge & Malling Borough Council Statement of Principles for Gambling

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1. Process steps to develop this policy

- | | |
|--|--|
| a) Draft consultation agreed at the Licensing and Appeals Committee | 19 June 2018 |
| b) Public Consultation | 22nd June 2018 until
31 st August 2018 |
| c) Licensing and Appeals Committee agrees the policy and recommends to Full Council for adoption | 2 nd October 2018 |
| d) Full Council adopt policy | 30 th October 2018 |
| e) New Policy comes into force | 15 January 2019 |

DRAFT

Foreword

Tonbridge & Malling Borough Council Statement of Principles for Gambling

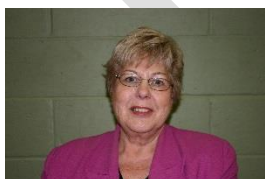
I am pleased to present to you the fifth edition of Tonbridge & Malling Borough Council's Statement of Principles for Gambling under the Gambling Act 2005. This edition has been comprehensively revised to reflect clearly the expectations of Tonbridge & Malling Borough Council in its role as a Licensing Authority.

We are required under the Gambling Act 2005 to produce a new policy on our approach to premises used for gambling every three years.

This Statement of Principles endeavours to carefully balance the interests of those who provide facilities for gambling and people who live, work in, and visit Tonbridge & Malling Borough. Its focus is to aim to permit gambling, as required by section 153 of the Gambling Act 2005, in so far as it is (a) in accordance with the Gambling Commission's Licence Conditions and Codes of Practice; (b) in accordance with the Gambling Commission's Guidance to Licensing Authorities that is in effect at the time the application is considered; (c) reasonably consistent with the licensing objectives and (d) in accordance with this Statement of Principles. The three licensing objectives are:

1. Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime;
2. Ensuring that gambling is conducted in a fair and open way;
3. Protecting children and other vulnerable persons from being harmed or exploited by gambling.

The Chairman of the Licensing and Appeals Committee would like to thank the Licensing Committee and, in particular, our partners for their part in, and contribution towards, the formulation of this policy.



Councillor Mrs Jill Anderson
Head of Licensing and Appeals Committee

Chapter One

Introduction and Overview

This Policy document includes the Statement of Principles for Gambling of the Tonbridge & Malling Borough Council effective from 1 February 2019.

Definitions Used in this Policy

‘the Act’ means the Gambling Act 2005

‘the Council’ means the Council of the Tonbridge & Malling Borough Council

‘the Commission’ means the Gambling Commission established under the Gambling Act of 2005

‘the Guidance’ means the Guidance to Licensing Authorities published by the Gambling Commission

‘Licensing Authority’ means the Council of the Tonbridge & Malling Borough Council

‘Licensing Committee’ refers to the Committee of the Tonbridge & Malling Borough Council to consider licensing matters

‘licensable activities’ means those activities that are required to be licensed by the Council under the Gambling Act 2005

‘Licensing Sub Committee’ refers to a Sub Committee of the Licensing Committee to consider licence applications

‘relevant representations’ means a representation conforming to the legal requirements of the Licensing Act 2003

‘Regulations’ refers to Regulations under the Licensing Act 2003 issued by the Secretary of State

‘responsible authority’ means the bodies designated under the Gambling Act 2005 and described in the Introduction to this Statement of Principles

‘the Statement’ refers to this Statement of Principles for Gambling

Introduction

1. Under Section 349 of the Gambling Act 2005, the Council is required to publish a Statement of Principles it proposes to apply when exercising its functions under the Act. The form of the Statement of Principles is set out in the Gambling Act 2005 (Licensing Authority Policy Statement) (England and Wales) Regulations 2007 and further guidance on what should be contained in the Statement of Principles can be found in the Gambling Commission’s Guidance to Licensing Authorities.
2. The Licensing Authority is required by virtue of section 153 of the Gambling Act 2005 to aim to permit gambling in so far as it is (a) in accordance with the Gambling Commission’s Licence Conditions and Codes of Practice; (b) in accordance with the Gambling Commission’s Guidance to Licensing Authorities that is in effect at the time the application is considered; (c) reasonably consistent with the licensing objectives and (d) in accordance with this Statement of Principles.

3. The Gambling Commission issues Licence Conditions and Codes of Practice for gambling operators. Social Responsibility Codes have the force of a licence condition. The Gambling Commission also issue Ordinary Codes, which set out best industry practice. They are not licence conditions, but operators are expected to follow them unless they have alternative arrangements in place which they can demonstrate are equally as effective.
4. The Licensing Authority, when carrying out inspections of gambling operators, reserves the right to assess compliance with such matters set out in the Gambling Commission's Licence Conditions and Codes of Practice as it sees fit, and will share intelligence with the Gambling Commission about any issues of non-compliance in this respect.
5. The licensing objectives under the Gambling Act 2005 are:
 - Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime;
 - Ensuring that gambling is conducted in a fair and open way;
 - Protecting children and other vulnerable persons from being harmed or exploited by gambling.
6. The Council consulted widely upon this revised Statement of Principles from 22 June 2018 until 31 August 2018. A list of persons consulted on the revised Statement can be found at Appendix One.
7. The Act requires the following to be consulted in the revision of the statement:
 - the Chief Officer of Police;
 - people and bodies representing the interests of persons in gambling businesses in the area;
 - people and bodies who represent the interests of persons who are likely to be affected by the exercise of the authority's functions under the Act.
8. Nothing in this Statement of Principles overrides the right of any person to make an application, make representations about an application or apply for a review of a licence. Each will be considered on its own merits and in accordance with the statutory requirements of the Act.
9. In reviewing this Statement of Principles, the Council has had regard to the licensing objectives under the Gambling Act 2005, the Guidance to Licensing Authorities issued by the Gambling Commission and to the responses arising from our consultation.

Responsible Authorities

10. The Council is required by regulations to state the principles it will apply in exercising its powers under Section 157(h) of the Act to designate, in writing, a body which is competent to advise the authority about the protection of children from harm.

The principles are:

- the need for the body to be responsible for an area covering the whole of the Council's area; and
 - the need for the body to be answerable to democratically elected persons, rather than any particular vested interest group.
11. The Council designates Kent Safeguarding Children's Board to advise on the protection of children from harm under the Gambling Act 2005.
12. The full list of Responsible Authorities for Tonbridge & Malling Borough Council are as follows:

The Chief Officer of Kent Police

Community Safety Unit
Tonbridge & Malling Borough Council
Gibson Drive
Kings Hill
West Malling
Kent ME19 4LZ
west.division.licensing@kent.pnn.police.uk

Kent Fire & Rescue

Maidstone Fire Station
Loose Road
Maidstone
Kent ME15 9QB
TFS.midgroup@kent.fire-uk.org

Environmental Health / Health and Safety

Tonbridge & Malling Borough Council
Gibson Building
Gibson Drive
Kings Hill
West Malling
Kent ME19 4LZ
environmental.protection@tmbc.gov.uk

Licensing Services

Tonbridge & Malling Borough Council
Gibson Building
Gibson Drive
Kings Hill
West Malling
Kent ME19 4LZ

licensing.services@tmbc.gov.uk

Planning

Tonbridge & Malling Borough Council
Gibson Building
Gibson Drive
Kings Hill
West Malling
Kent ME19 4LZ

planning.applications@tmbc.gov.uk

Social Services

Kent Safeguarding Children's Board
Sessions House
County Hall
Maidstone
Kent ME14 1XQ

social.services@kent.gov.uk

The Gambling Commission

Victoria Square House
Victoria Square
Birmingham B2 4PB

info@gamblingcommission.gov.uk

HM Revenue and Customers

Excise Processing Team
HM Revenue and Customs
BX9 1GL
United Kingdom

nrubetting&gaming@hmrc.gsi.gov.uk

Interested Parties

13. Interested parties are persons who may make representations to applications or apply to the Council for the review of an existing licence. These parties are defined in section 158 of the Act as a person who:
 - (a) lives sufficiently close to the premises to be likely to be affected by the authorised activities,
 - (b) has business interests that might be affected by the authorised activities, or
 - (c) represents persons who satisfy paragraph (a) or (b).
14. When determining whether a person is an interested party for the purposes of the Act, the Licensing Authority will not apply rigid rules but will treat each case on its merits.
15. In considering whether a person lives sufficiently close to a premises to be considered to be an interested party the following matters will be taken into account:
 - the size of the premises
 - the nature of the premises
 - the distance of the premises from the home or workplace of the person making the representation
 - the potential impact of the premises (numbers of customers, routes likely to be taken by those visiting the premises)
 - the circumstances of the person and nature of their interests, which may be relevant to the distance from the premises.
 - the catchment area of the premises (i.e. how far people travel to visit); and
 - whether the person making the representation has business interests, in that catchment area that might be affected.
16. In determining whether a person or organisation "has business interests" the Licensing Authority will adopt the widest possible interpretation and include trade associations, trade unions, partnerships, charities, faith groups, voluntary organisations such as hostels and medical practices, as appropriate.
17. The Licensing Authority will regard bodies such as trade associations, trade unions, residents' and tenants' associations and professional advisors such as solicitors, barristers and consultants as capable of representing interested parties where they are satisfied that the interested party has asked for representation. The Licensing Authority will only regard representative bodies as interested parties in their own right if they have a member who can be classed as an interested person under the terms of the Act.

18. In principle, the Licensing Authority will allow any person to represent an interested party but will seek confirmation that the person genuinely represents the interested party. We will generally require evidence that a person/body (e.g. an advocate or relative) 'represents' an interested party. If persons representing interested parties are Councillors, Members of Parliament or Members of the European Parliament, then no specific evidence of being asked to represent an interested person will be required so long as they represent the area likely to be affected.
19. If individuals wish to approach Councillors to ask them to represent their views those Councillors shall not sit on a Licensing Sub-Committee that meets to determine the licence application. If there are any doubts then either interested parties or Councillors should contact the Licensing Authority for advice.

Geographical Area Covered by this Statement of Principles

20. A map showing the geographical area covered by this Statement of Principles can be viewed at **Appendix Two**.

List of Bodies Consulted on this Statement of Principles

- British Amusement Catering Trade Association (BACTA)
- Association of British Bookmakers
- Gamble Aware
- The Gambling Commission
- The Chief Officer of Kent Police
- Kent Fire & Rescue
- TMBC – Environmental Health / Health and Safety
- TMBC – Planning
- Social Services
- HM Revenue and Customs
- Operators of Betting Premises in Tonbridge & Malling Borough Council
- Operators of Adult Gaming Centres in Tonbridge & Malling Borough Council
- Holders of Gaming Machine Permits in Tonbridge & Malling Borough Council
- Holders of Club Gaming Permits in Tonbridge & Malling Borough Council
- Holders of Club Machine Permits in Tonbridge & Malling Borough Council
- Tonbridge & Malling Borough Council Ward Members
- Parish Councils

Exchange of Information

21. The Council will act in accordance with the provisions of Section 350 of the Act in its exchange of information with the Gambling Commission.
22. Section 29 of the Gambling Act 2005 enables the Gambling Commission to require information from Licensing Authorities (including the manner in which it is compiled, collated and the form in which it is provided), provided that it:
 - forms part of a register maintained under the Gambling Act 2005;
 - is in the possession of the Licensing Authority in connection with a provision under the Gambling Act 2005.
23. Section 350 of the Gambling Act 2005 allows Licensing Authorities to exchange information with other persons or bodies for use in the exercise of functions under the Act. These persons or bodies are:
 - A constable or Police force
 - An enforcement officer
 - A Licensing Authority
 - HMRC
 - The First Tier Tribunal
 - The Secretary of State
 - Scottish Ministers
24. Information requests from such parties should be made to the Licensing Authority in writing, setting out clearly what information is required and the reason the information is required. The requirements of the Data Protection Act 1998 will be complied with. Freedom of Information requests can be submitted online at: foi@tmhc.gov.uk
25. The Licensing Authority will also have regard to Guidance issued by the Gambling Commission to local authorities as well as any relevant regulations issued by the Secretary of State under the powers provided for in the Act.

Enforcement

26. The primary aim of enforcement is to achieve compliance. Though enforcement may be taken to mean the formal approach, it may also include advice and support to business to achieve compliance.
27. Inspections will be carried out on a risk rated basis:
 - New premises, premises under new management
 - Premises where complaints have been received or intelligence received relevant to the licensing objectives and premises or operators where compliance failings have been identified previously will attract a higher risk rating.

- Premises located in areas where there have been incidents of crime affecting or relating to gambling premises, or where the premises themselves have been the victims or involved in such crime, shall also attract a higher risk rating.
 - The Council will conduct baselining assessments to assess initial risk ratings for gambling premises in its district.
28. Compliance may be achieved through encouraging a sense of community, improved communication, and proactive work with licensees and businesses. Such proactive work may include project work, giving advice and information, and initiatives that educate, inform and encourage partners and stakeholders to work together efficiently and effectively. The principal objective in taking a holistic approach to managing the gambling industry is to prevent problems from occurring before they begin.
29. However, it is recognised that such aims cannot always be achieved, and that active enforcement of the law may be the only effective means of securing compliance. To this end the following enforcement options are available to the Licensing Authority:
- verbal or written advice
 - verbal warning
 - written warning
 - mediation between licensees and interested parties
 - licence review
 - simple caution
 - prosecution
30. These actions are not mutually exclusive and it may be that one course of action follows another, depending on the individual circumstances.
31. The Licensing Authority operates a partnership approach to dealing with enforcement matters concerning licensed premises. This may include working with the Police or any of the other responsible authorities under the Act, or working with colleagues from other Council departments or outside agencies.
32. The Licensing Authority needs to be satisfied premises are being run in accordance with the provisions of the Act, the licensing objectives, the Licence Conditions and Codes of Practice issued by the Gambling Commission and any conditions attached to the Premises Licence. To achieve this, the Licensing Authority will inspect premises, look at gambling facilities, gaming machines and policies and procedures, meet with licence holders and carry out general monitoring of areas as necessary.
33. Inspection and enforcement under the Act will be based on the principles of risk assessment, a graduated response and the targeting of problem premises. The frequency of inspections will be determined on risk-based criteria with high risk operations receiving more attention than premises carrying lower risk.

34. Premises found to be fully compliant will attract a lower risk rating. Those where breaches are detected will attract a higher risk rating.
35. The Licensing Authority will take appropriate enforcement action against those responsible for unlicensed premises/activity. Action will be carried out in accordance with the Enforcement Policy.
36. Before deciding which course of action to take, the Licensing Authority shall consider the following matters:
- the history of the premises
 - the history of the offender
 - the offender's attitude
 - the circumstances of the offence
 - whether the offender has a statutory defence to the allegations
 - the impact or potential impact of the breach on the public
 - the quality of the evidence against the offender
 - the likelihood of achieving success in a prosecution
 - the likely punishment that will be incurred if the case goes to Court
 - whether the course of action proposed is likely to act as a deterrent
 - whether the course of action, if it is publicised, is likely to have a beneficial effect on the behaviour of others
37. The Licensing Authority will operate within the principles of natural justice and take into account the Human Rights Act 1998. This includes, in particular:
- Every person is entitled to the peaceful enjoyment of his possessions – a licence is a possession in law and persons may not be deprived of their possessions except where it is in the public interest;
 - Every person is entitled to a fair hearing.
38. The Licensing Authority Enforcement Team are committed to the principles of good regulation as set out in the Regulators Code. This means our inspection and enforcement activities will be carried out in a way that is:
- Proportionate: only intervening when necessary. Remedies will be appropriate to the risk posed, and costs identified and minimised;
 - Accountable: able to justify our decisions, and be subject to public scrutiny;
 - Consistent: implementing rules and standards fairly in a joined-up way;
 - Transparent: acting in open way, and keeping conditions placed on Premises Licences simple and user friendly; and
 - Targeted: focusing on the problems, and aiming to minimise the side effects.

The Council's Functions

39. Councils, when acting as Licensing Authorities are required under the Act to:
- licence premises where gambling activities are to take place by issuing Premises Licences
 - issue Provisional Statements
 - regulate members' clubs and miners' welfare institutes who wish to undertake certain gaming activities via issuing Club Gaming Permits and/or Club Machine Permits
 - issue Club Machine Permits to commercial clubs
 - grant permits for the use of certain lower stake gaming machines at unlicensed Family Entertainment Centres
 - receive notifications from alcohol licensed premises (under the Licensing Act 2003) for the use of two or fewer gaming machines
 - issue Licensed Premises Gaming Machine Permits for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where there are more than two machines
 - register small society lotteries below the prescribed thresholds
 - issue Prize Gaming Permits
 - receive and endorse Temporary Use Notices
 - receive Occasional Use Notices for betting at tracks
 - provide information to the Gambling Commission regarding details of licences, permits and other permissions issued
 - maintain registers of the permits and licences that are issued under these functions.
40. Councils are not involved in licensing online gambling, which is the responsibility of the Gambling Commission.

Duplication with Other Regulatory Regimes

41. The Licensing Authority will seek to avoid duplication with other statutory and regulatory regimes where possible, including planning. The Licensing Authority will not consider planning permission or building regulations approval when making decisions under the Gambling Act. Nor will it regard the granting of a licence, permit or permission as fettering the Council's ability to consider planning applications independently on their planning merits.
42. Applicants should be aware that the granting of a Premises Licence does not permit the operator to provide gambling facilities where to do so would breach other legislative requirements such as the requirement for appropriate planning consent to be held. It is the operator's responsibility to ensure all relevant legal requirements are met and to seek their own independent legal advice.

Gambling Prevalence and Problem Gambling

43. Participation in gambling and rates of problem gambling published on the Gambling Commission website by NHS Digital showed that:

56%	of people in England gambled in 2016
42%	of people in England (excluding those who had only played National Lottery draws) gambled in 2016
0.7%	of people in England identified as problem gamblers
1.2%	of gamblers in England identified as problem gamblers
3.6%	of people in England were at low or moderate risk of developing problems with their gambling
6.6%	of gamblers in England are at low or moderate risk of developing problems with their gambling

<http://www.gamblingcommission.gov.uk/news-action-and-statistics/Statistics-and-research/Levels-of-participation-and-problem-gambling/Levels-of-problem-gambling-in-England.aspx>

44. Problem gambling can have a detrimental effect on personal finances as the attempt to chase losses becomes unmanageable. As well as spending wages, savings and spare cash, debts can also be a feature of problem gambling as a result of borrowings and loans to cover gambling losses. However, the effects of problem gambling can cost more than money.
45. Problem gamblers often say they feel isolated as a result of their solitary pursuits of chasing losses. There is a tendency to stay away from school, college or work in order to gamble. In addition, there is often a preoccupation with gambling, a lack of interest in maintaining relationships and a lack of motivation to engage in social activities.
46. There is often reluctance amongst gamblers to spend money on items of clothing or household goods as this expenditure is often seen as funds for gambling. There can also be an unwillingness to pay utility bills as money would rather be used for gambling purposes.
47. Problem gambling can be progressive in nature and problem gamblers can end up engaging in criminal activity to fund their gambling. This can lead to lifelong consequences with criminal convictions.

Chapter Two

Welcome to the Tonbridge & Malling Borough Council

This section gives a description of the Tonbridge & Malling Borough Council

General Description

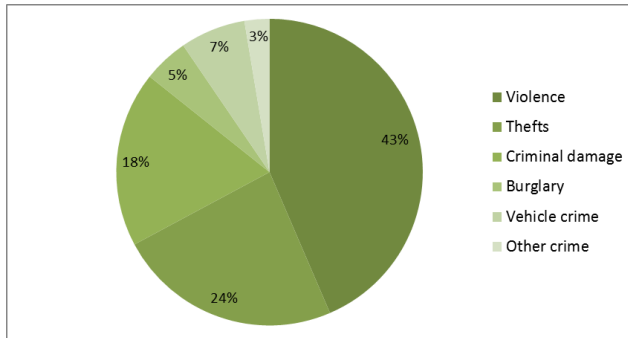
48. Tonbridge & Malling Borough Council covers an area of 24,013 hectares. The Councils surrounding the borough of Tonbridge and Malling are those of Sevenoaks District to the west, Medway Unitary Authority to the north, and the boroughs of Tunbridge Wells and Maidstone to the south and east respectively. Tonbridge & Malling Borough Council is comprised of 34 wards
49. 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.
50. The latest population figures from the mid 2016 Mid-year population estimates show that there are 127,300 people living in the borough. This population size makes Tonbridge & Malling the 5th largest local authority district in the Kent County Council (KCC) area.
51. Tonbridge & Malling has a younger age profile compared to the county average, with a greater proportion of 5 – 19 year olds than the average for the KCC area. Tonbridge & Malling also has a higher proportion of middle-aged residents, aged between 35 and 59 compared to the county average.
52. Over the past 10 years Tonbridge & Malling's population has grown by 12.1% (an additional 13,800 people). This is the 6th highest rate of growth of any Kent district. The population growth in Tonbridge & Malling is set to continue with current forecasts suggesting that between 2016 and 2036 the population of the borough will increase by a further 23.4%. This is the 6th highest rate of growth expected for any Kent district and a growth rate that is slightly higher than the county average (22.2%). This forecast is based on KCC's assessment of the district authority's future housing targets as at September 2017. Such targets will be subject to changes as district authorities develop their Local Development Framework.
53. 95.9% of Tonbridge & Malling's population is of white ethnic origin with the remaining 4.1% being classified as of Black Minority Ethnic (BME) origin. Tonbridge & Malling's unemployment rate is currently 0.9%. This is lower than both the county average of 1.7% and the national average of 1.9%. In September 2017 there were 740 unemployed people in Tonbridge & Malling

which is 2.1% higher (15 more people) than August 2017 and 3.5% higher (25 more unemployed people) than September 2016.

Statistical Overview of Tonbridge & Malling

Indicator		Comparison
Total population	127,300	↑ Increasing
Average age	40.5 years	Kent: 40.9
% Young people	19.1%	↑ Increasing
% Older people	18.6%	↓ 0.1pp one year
Young people 2031 <small>projected</small>	30,400	
Older people 2031 <small>projected</small>	33,700	
Population density	5.3	No change
Proportion White British	95.9%	
Life expectancy, males	81.2years	Kent: 80.1
Life expectancy, females	85.4years	Kent: 83.6
Health	84.5%	England: 81.7%
Disability	14.4%	England: 17.2%
Disability benefit claimants	6.2%	↑3.0% one year
Young carers	0.5%	Kent: 0.6%
Out of work benefits	5.3%	↓0.4pp; Kent 7.4%
'Children in poverty'	13.1%	↓0.4pp Kent 17.3%
Number of households	48,140	Census data
Single person households	24%	Kent: 28.8%
Single older household	11.7%	Kent: 13.1%
Older households	9.9%	Kent: 9.3%
Indicator of overcrowding	2.8%	
Total primary schools	44	
Total secondary schools	11	
Total special schools	3	
Free school meals	8.2%	Kent 11.3%
SEN total	11.3%	Kent: 12.4%
Educational attainment	62.8%	↓1.3pp one year
Looked after children	44.3	
Subject to Child Protection	13.7	
Labour market pressure	1.1	Kent: 1.0
Unemployment rate	0.9%	↑ 1.4% one year
Gross weekly pay	£619.90	↓
Gross weekly pay change	↑ £67	SE ↑ £8
Job Seekers Allowance	0.8%	↓ 0.3pp one year
Smoking	13.5%	↓ 3.6pp
Obesity	21.2%	England: 23.0%
Excess weight	65.2%	England: 63.8%

All Crime



During the period October 2016 to September 2017, there were 7,041 recorded crimes compared to 5,810 in the preceding twelve months. This is an increase of 21.2% (or 1,231 recorded offences).

Chart 1. The percentage of recorded crime by major crime type, April 2017 to September 2017. Source: Kent Police.

Tonbridge & Malling has the third lowest crime rate in Kent (above Sevenoaks and Tunbridge Wells).

	Rate, 2016-17
Tonbridge & Malling	57.4 ↑
MSG average	59.9 ↑
Lowest in MSG	49.8 ↑
Highest in MSG	71.6 ↑
Sevenoaks	57.9 ↑
Tunbridge Wells	51.1 ↑

Table 1. The overall rate of recorded crime per 1,000 population in Tonbridge & Malling compared to our Most Similar Group (MSG) and nearest geographical neighbours. To June 2017. Source: ONS, Kent Police.

The number of recorded crimes follows a broad annual pattern, with fewer offences typically recorded in January and slight peaks in May and July.

A breakdown of the latest crime statistics is available on the following web links for:

Tonbridge and Malling Borough

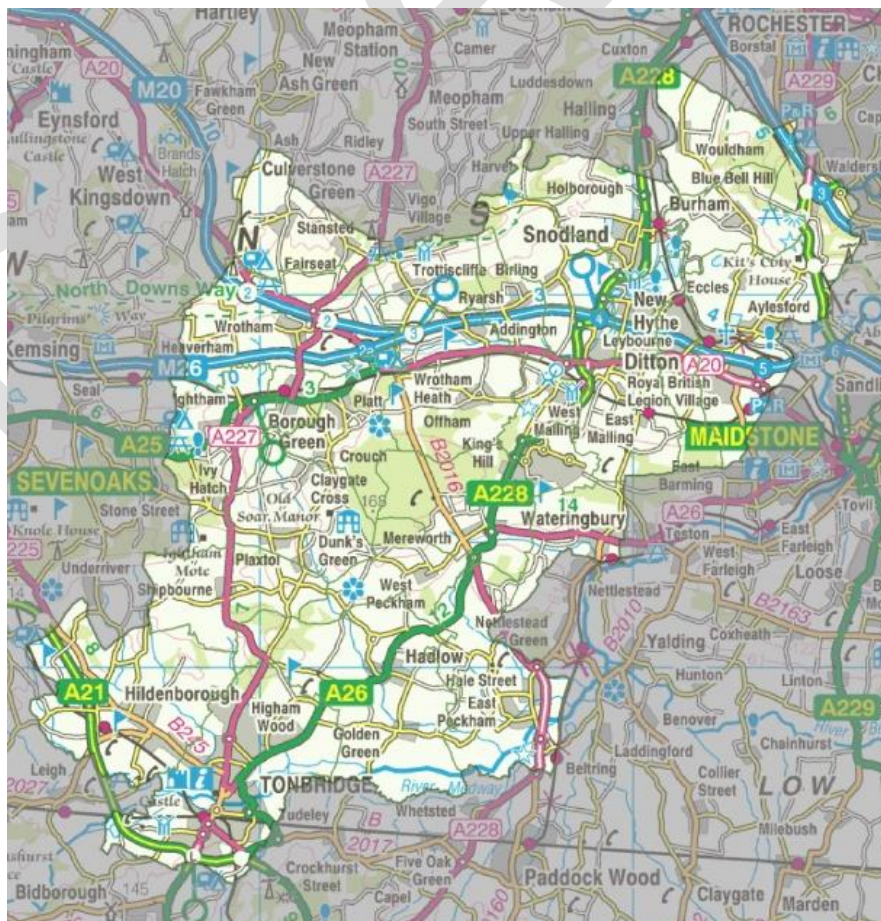
<http://www.ukcrimestats.com/Subdivisions/DIS/2351/>

All 34 wards can be found at

<http://www.ukcrimestats.com/Search/>

Location of licensed premises under the Gambling Act 2005

Type of premises	Name of premises	Location	Address	Ward
Betting Shop	Coral	Borough Green	Wrotham Road Borough Green	Borough Green
Betting Shop	Betfred	Larkfield	9 And 13 Martin Square Larkfield	Larkfield South
Betting Shop	Betfred	Snodland	20/22 Holborough Road, Snodland	Snodland East and Ham Hill
Betting Shop	Coral	Snodland	28 High Street, Snodland	Snodland West and Holborough Lakes
Adult Gaming Centre	Mr P's Classic Amusements Limited	Tonbridge	75 High Street, Tonbridge	Medway
Betting Shop	Betfred	Tonbridge	1A High Street, Tonbridge	Medway
Betting Shop	Metrobet	Tonbridge	15 York Parade Shipbourne Road Tonbridge	Trench
Betting Shop	Betfred	Tonbridge	85/87 High Street Tonbridge	Medway
Betting Shop	William Hill	Tonbridge	92A High Street Tonbridge	Castle
Betting Shop	Coral	West Malling	79 High Street West Malling	West Malling and Leybourne



Chapter Three

Licensing Objectives and Local Area Risk Assessments

54. The Gambling Act 2005 contains three licensing objectives. In this revision of its Statement of Principles, the Licensing Authority seeks to assist applicants by setting out the considerations we will apply when determining applications under the Act.
55. Though Licensing Authorities are required to 'aim to permit' gambling, there is wide scope for them to impose conditions on Premises Licences or to reject, review or revoke Premises Licences where there is an inherent conflict with the relevant Licence Conditions and Codes of Practice issued by the Gambling Commission, the Guidance to Licensing Authorities issued by the Gambling Commission, the licensing objectives or this Statement of Principles.
56. Licensing Authorities are able to request any information from an operator they may require to make licensing decisions. The Gambling Act 2005 requires a minimum level of information to be provided, but the Gambling Commission state in their Guidance to Licensing Authorities that this does not preclude reasonable requests from Licensing Authorities for any additional information they may require to satisfy themselves their decisions accord with the licensing objectives and Codes of Practice.

Risk Assessment

57. The Licensing Authority expects applicants to have a good understanding of the area in which they either operate, or intend to operate. The applicant will have to provide evidence that they meet the criteria set out in this Statement of Principles and demonstrate that in operating the premises they will promote the licensing objectives.
58. The Gambling Commission introduced a Social Responsibility Code of Practice requiring operators of premises used for gambling to conduct local area risk assessments and an Ordinary Code stating this should be shared with the Licensing Authority in certain circumstances in May 2016.
59. The Licensing Authority expects applicants for Premises Licences in its area to submit a risk assessment with their application when applying for a new premises licence, when applying for a variation to a premises licence or when changes in the local environment or the premises warrant a risk assessment to be conducted again.
60. The risk assessment should demonstrate the applicant has considered, as a minimum:

- local crime statistics;
 - any problems in the area relating to gambling establishments such as anti-social behaviour or criminal damage;
 - the location of any nearby sensitive premises, such as hostels and other facilities used by vulnerable persons e.g. drug and alcohol addictions;
 - whether there is a prevalence of street drinking in the area, which may increase the risk of vulnerable persons using the premises;
 - the type of gambling product or facility offered;
 - the layout of the premises;
 - the external presentation of the premises;
 - the location of nearby transport links and whether these are likely to be used by children or vulnerable persons;
 - the customer profile of the premises;
 - staffing levels;
 - staff training, knowledge and experience;
 - whether there is any indication of problems with young person's attempting to access adult gambling facilities in that type of gambling premises in the area.
61. It is recommended that operators liaise with other gambling operators in the area to identify risks and consult with any relevant responsible authorities as necessary.
62. This Statement of Principles does not preclude any application being made and every application will be decided on its individual merits, with the opportunity given for the applicant to show how potential concerns can be overcome.
63. The Licensing Authority expects applicants to keep a copy of the local area risk assessment on the licensed premises and to ensure that all staff have seen the risk assessment, have received training in respect of its content, and are able to produce the risk assessment on request by an authorised officer of the Council, the Police or the Gambling Commission.

Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime

64. The Licensing Authority will consider whether the premises make, or are likely to make, a contribution to the levels of crime and disorder in an area and whether the applicant has demonstrated that he has, or intends to, implement sufficient controls to prevent the premises being a source of, and/or associated with crime or disorder, or being used to support crime, if the application is granted.

65. Where an area is known for high levels of crime (particularly crime associated with premises used for gambling), the Licensing Authority will consider whether gambling premises are suitable to be located there, and whether additional conditions may be necessary, such as the provision of CCTV, minimum levels of staffing and licensed door supervisors.
66. In terms of disorder, the Guidance to Licensing Authorities published by the Gambling Commission states, "Licensing Authorities should generally consider disorder as activity that is more serious and disruptive than mere nuisance. Factors to consider in determining whether a disturbance was serious enough to constitute disorder would include whether Police assistance was required and how threatening the behaviour was to those who could hear or see it. There is not a clear line between nuisance and disorder and the Licensing Authority should take the views of its lawyers before determining what action to take in circumstances in which disorder may be a factor".
67. The Licensing Authority will consider whether the layout, lighting, staffing and fitting out of the premises have been designed so as to minimise conflict and opportunities for crime and disorder.
68. The Licensing Authority will consider whether sufficient management measures are proposed or are in place to prevent the premises being a source of, or associated with crime or disorder, or used to support crime either as a place of association or to avoid apprehension.

Ensuring that gambling is conducted in a fair and open way

69. Though this licensing objective is primarily the responsibility of the Gambling Commission, the Licensing Authority will have a role in respect of the licensing of tracks, where an Operator's Licence from the Gambling Commission is not required. Matters to be taken into account will include:
 - whether the layout, lighting and fitting out of the premises have been designed so as to ensure gambling is conducted in a fair and open way.
 - whether sufficient management measures are proposed or are in place to ensure that gambling is conducted in a fair and open way.
 - whether the management and operation of the premises is open and transparent.
 - whether the operators of the premises have been or will be fully cooperative with enforcement agencies.
 - whether the operator has a transparent procedure in place for dealing with consumer complaints that are available to all customers and implemented where necessary.
 - whether gaming machines are compliant with Gambling Commission Technical Standards in respect of machine livery requirements such as clear display of stakes, prizes, machine category and RTP.

- whether the terms and conditions on which gambling products and promotions are offered and rules are clear and readily available to customers.
- whether the Gambling Commission's Licence Conditions and Codes of Practice have been complied with.

Protecting children and other vulnerable persons from being harmed or exploited by gambling

70. The Licensing Authority will consider the following when taking this licensing objective into account:

- whether the operator has a specific training programme for staff to ensure they are able to identify children and vulnerable people and take appropriate action to promote this objective to exclude them from the premises or parts of the premises;
- if the premises is an adult only environment, whether the operator has taken effective measures to implement a proof of age scheme such as Think 21 to ensure no one under the age of 18 is admitted to the premises or restricted areas;
- whether the layout, lighting and fitting out of the premises have been designed so as to not attract children and other vulnerable persons who might be harmed or exploited by gambling;
- whether sufficient management measures are proposed or are in place to protect children and other vulnerable persons from being harmed or exploited by gambling;
- whether any promotional material associated with the premises could encourage the use of the premises by children or young people;
- whether the operator can produce a record of underage challenges and action taken to establish age and prevent underage persons from being able to gamble;
- whether the premises are located near to facilities that may encourage their use by vulnerable people, such as hostels for those with mental illness and/or addiction problems.

71. The Licensing Authority expects applicants to consider the measures necessary to promote the licensing objective of protecting children and other vulnerable persons from being harmed or exploited by gambling. It is noted that neither the Act nor the Gambling Commission Guidance define the term 'vulnerable persons'. The Licensing Authority consider the term 'vulnerable persons' to include people who gamble more than they want to; people who gamble beyond their means and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, changes in circumstances such as bereavement, loss of employment or ill health or due to alcohol or drugs.

Chapter Four

Premises Licences

72. Any person or business that wishes to offer gambling for which an Operating Licence from the Gambling Commission is required, and which is premises based, must apply to the Licensing Authority for a Premises Licence.
73. Premises Licences can authorise the provision of facilities on:
- casino premises,
 - bingo premises,
 - betting premises including tracks and premises used by betting intermediaries,
 - adult gaming centre premises, or
 - family entertainment centres.
74. Matters the Licensing Authority may not take into account include:
- the expected demand for gambling premises in the area;
 - planning or building law restrictions;
 - moral or ethical objections to gambling as an activity;
 - dislike of gambling;
 - a general notion that gambling is undesirable.
75. All licences will be subject to mandatory and/or default conditions and conditions imposed by the Licensing Authority. The Licensing Authority may consider that conditions other than the mandatory or default conditions are necessary to ensure the premises are reasonably consistent with the licensing objectives, the Gambling Commission's Codes of Practice and this Statement of Principles.
76. The Licensing Authority will take decisions in accordance with the Gambling Commission's Guidance and Licence Conditions and Codes of Practice and will have regard to the advice which it issues from time to time. The Licensing Authority will monitor the operation of premises and report any potential breach of Operating Licence conditions to the Gambling Commission. Applicants for new Premises Licences or variations to existing ones should be clear that the premises are intended to be used for the primary gambling activity proposed. For example a betting Premises Licence application that has four gaming machines but no betting counter or associated betting facilities shown on the proposed plans would not be considered as offering the primary gambling activity in accordance with that indicated on the application.
77. The majority of Premises Licences will have mandatory and/or default conditions attached to the licence. The Licensing Authority can attach its own conditions to a Premises Licence if it believes this will promote the licensing objectives. Any conditions attached will be:

- relevant to the need to make the proposed building suitable as a gambling facility;
- directly related to the premises and the type of licence applied for;
- relate to the scale and type of premises; and
- reasonable in all respects.

78. Certain matters are set out in the Act may not be the subject of conditions. These are:

- conditions which make it impossible to comply with an Operating Licence
- conditions as to gaming machines that contradict the provisions in the Act
- conditions making activities, premises or parts of them operate as a membership club
- conditions on fees, winnings, stakes or prizes.

79. Conditions will be attached to individual licences on the basis of their merits. However, there will be a number of measures the Licensing Authority will commonly consider utilising in order to pursue the licensing objectives. These may include measures such as:

- the supervision of entrances;
- separation of gambling from non-gambling areas frequented by children;
- the supervision of gaming machines in premises not specifically for adult gambling and
- appropriate signage for adult only areas.

The Licensing Authority will expect the applicant to propose how the licensing objectives can be met effectively through the use of conditions.

Split Premises

80. The Gambling Commission's Guidance states that a building can, in principle, be divided into more than one premises and be subject to more than one Premises Licence provided they are for different parts of the building, and the different parts of the building can reasonably be regarded as being different premises. An example is given of units within a shopping mall, where each unit is separate self-contained premises contained within one building. It is also possible for licensed premises to be located next to each other.

81. The Gambling Commission state they do 'not consider that areas of a building that are artificially separated, for example by ropes or moveable partitions, can properly be regarded as separate premises'.

82. Whether different parts of a building can be reasonably regarded as different premises will depend on the circumstances of the individual building and how any division is proposed. To agree to accept applications to grant or vary a licence for a building which has been divided, the Licensing Authority will need

to be satisfied the premises are genuinely separate premises, and not an artificially created additional part of single premises.

83. In considering whether different areas of a building are genuinely separate premises the Licensing Authority will take into account factors which will include:
- whether there are separate registrations for business rates in place for each premises;
 - whether separate sets of staff work in the individual premises;
 - whether there is a separate cash desk/reception for each of the premises;
 - whether each premises has its own postal address;
 - whether the premises are owned or operated by the same person;
 - whether each of the premises can be accessed from a street or public passageway;
 - whether the premises can only be accessed from any other gambling premises.
84. When considering proposals to divide a building into separate premises, the Licensing Authority will also need to be satisfied that the form of separation between the premises is appropriate.
85. The separation between one premises and another must be clearly defined. Any barrier used to separate one premises from another must be permanent and constructed so the public cannot go from one premises to another.
86. It may be acceptable for staff working in adjacent premises to have access through barriers between premises. The applicant must demonstrate that in providing staff access there are suitable control measures in place that will ensure the safety and security of staff and will prevent the public from using the same access point to enter the other premises.
87. The Gambling Act 2005 (Mandatory and Default Conditions) Regulations 2007 restrict access to different types of licensed gambling premises. In considering proposals to divide a building into different premises, the Licensing Authority will have to be satisfied that proposals to divide buildings are compatible with the mandatory conditions relating to access between premises.
88. The Guidance at paragraph 7.22 states “There is no definition of ‘direct access’ in the Act or Regulations, but Licensing Authorities may consider that there should be an area separating the premises concerned (for example a street or café), which the public go to for purposes other than gambling, for there to be shown to be no direct access.”
89. It is the Licensing Authority’s opinion that any area which separates licensed premises, and from which those premises can be accessed, must be genuinely separate premises which are habitually and actually used by members of the public other than those using the licensed premises.

90. The Licensing Authority does not consider that provisions which prohibit direct access between licensed premises are satisfied where licensed premises are separated by an area created artificially within a building principally for members of the public attending the licensed premises, irrespective of whether this area is unlicensed or provides non-gambling facilities, for example refreshments or cashpoint machines.
91. Where the Licensing Authority is satisfied that a building can be divided into separate premises it will expect applicants to ensure that:
- the premises are configured so that children are not invited to participate in, have accidental access to, or closely observe gambling to which they are prohibited from taking part;
 - the premises are not configured so children are likely to enter an adult only area to join a parent gambling in that adult only area,
 - entrances and exits from parts of a building covered by one or more Premises Licences are separate and identifiable so the separation of different premises is not compromised and people do not 'drift' into a gambling area. In this context it should be possible to access the premises without going through another licensed premises or premises with a permit;
 - customers should be able to participate in the activity named on the Premises Licence.

This is not an exhaustive list and the Licensing Authority will consider other aspects based on the merits of the application.

Access to Premises

92. The Gambling Act 2005 (Mandatory and Default Conditions) Regulations set out access provisions for each type of licensed gambling premises. The broad principle is there can be no direct access from one licensed gambling premises to another, except between premises which allow those aged under-18 to enter and with the further exception that licensed betting premises may be accessed via other licensed betting premises.
93. 'Direct access' is not defined, but the Licensing Authority will consider there should be an area such as a street or café to which the public attend for purposes other than gambling for there to be no direct access.

Type of Premises	Access Provisions
Casino	<ul style="list-style-type: none"> • The principal access to the premises must be from a 'street'; • No entrance to a casino must be from premises that are used wholly or mainly by children and/or young persons;

Type of Premises	Access Provisions
	<ul style="list-style-type: none"> No customer must be able to access a casino directly from any other premises which holds a gambling premises licence.
Adult Gaming Centre	<ul style="list-style-type: none"> No customer must be able to access the premises directly from any other licensed gambling premises.
Betting Shop	<ul style="list-style-type: none"> Access must be from a 'street' or from other premises with a betting licence; No direct access is permitted from a betting shop to another premises used for the retail sale of merchandise or services. In effect there cannot be any entrance to a betting shop from a shop of any kind unless that shop is in itself a licensed betting premises.
Track	<ul style="list-style-type: none"> No customer must be able to access the premises directly from a casino or Adult Gaming Centre.
Bingo Premises	<ul style="list-style-type: none"> No customer must be able to access the premises directly from a casino, an Adult Gaming Centre or a betting premises, other than a track.
Family Entertainment Centre	<ul style="list-style-type: none"> No customer must be able to access the premises directly from a casino, an Adult Gaming Centre or a betting premises, other than a track.

Plans

94. The Gambling Act 2005 (Premises Licences and Provisional Statements) Regulations 2007 state that a plan to accompany an application for a Premises Licence must show:

- the extent of the boundary or perimeter of the premises
- where the premises include, or consist of, one or more buildings, the location of any external or internal walls of each such building
- where the premises forms part of a building, the location of any external or internal walls of the building which are included in the premises
- where the premises are a vessel or a part of a vessel, the location of any part of the sides of the vessel, and of any internal walls of the vessel which are included in the premises
- the location of each point of entry to and exit from the premises, including in each case a description of the place from which entry is made or to which exit leads.

95. The Regulations also state that other than in respect of a track, the plan must show 'the location and extent of any part of the premises which will be used to provide facilities for gambling in reliance on the licence'. The Licensing Authority may, however, consider that these minimum requirements are insufficient to satisfy them in respect of the licensing objectives at tracks, Gambling Commission Guidance, Codes of Practice or its own Statement of Principles. In such cases, the Licensing Authority may ask for such additional information to be shown on the plan as it deems necessary to enable it to discharge its duties effectively. Information shown on the plan that is not required by Regulations will not form part of the Premises Licence and will only be used by the Licensing Authority to help it make a considered decision on the application.
96. If plans change in any material respect during the lifetime of the licence, the applicant will be in breach of their licence and would either need to make a fresh application under s.159 or to seek an amendment to the licence under s.187 of the Gambling Act 2005. If the changes are substantial, this may, in the opinion of the Licensing Authority, render the premises different to those to which the licence was granted. In such cases, variation of the licence under s.187 would not be possible and an application for a new application would be required under s.159.

General Requirements for All Premises

97. The Licensing Authority expects all applicants for gambling Premises Licences to ensure there is adequate provision for staff to supervise persons using the licensed premises. This is to identify those who have self-excluded, vulnerable persons, under age persons, persons gambling beyond limits they have set for themselves, person who may be involved in crime, persons who may be prone to anti-social behaviour, persons who are drinking alcohol where this is prohibited and persons who are showing signs of distress in respect of their gambling.
98. Applicants must take the structure and layout of the premises into account when considering their own policies and procedures. For example, where it is not possible for counter staff to supervise persons using gambling facilities such as gaming machines, the Licensing Authority would expect applicants to volunteer conditions that floor walkers will be used or that counter staff will be able to view all areas of the premises on CCTV provided to the counter area where it can be clearly seen.
99. Arrangements must be made for how staff will deal with customers who become aggressive and for ejecting patrons who are, for example, self-excluded, vulnerable or under age. This will include staff training and ensuring there are appropriate numbers of staff to deal with problems.
100. Staff should be in a position to monitor entrances and gaming machines and challenges should be initiated at the earliest opportunity.

101. Where access to premises is age restricted, the Licensing Authority expects applicants to have a Think 21 policy in place and to train its staff in recognising acceptable forms of identification. Posters should also be displayed stating that the relevant policy is in place and that users may be challenged.
102. Licence holders should record details of persons who have self-excluded, persons who have been ejected or refused admission, persons who have been barred by the operator, and any instances of crime or disorder that occurs on, or in association with, the licensed premises.
103. Applicants should demonstrate how they will identify self-excluded persons.
104. Where applicable, operators shall be able to demonstrate they are participating effectively in the relevant multi-operator self-exclusion scheme.

Casinos

105. **No Casinos resolution** – Section 166 of the Gambling Act 2005 gives a Licensing Authority the ability to resolve not to issue casino premises licences. This licensing authority has **not** passed a ‘no casino’ resolution. Should this licensing authority decide in the future to pass such a resolution, it will update this policy statement with details of that resolution.
106. In determining applications for casino premises, the Licensing Authority shall consider the following:
 - proof of age schemes
 - CCTV
 - entry control system
 - staff numbers
 - staff training
 - layout of premises
 - supervision of entrances/machine areas/gaming tables
 - notices/ signage
 - opening hours
 - provision of responsible gambling information
 - identification of customers

This list is not exhaustive, and is merely indicative of example measures the Licensing Authority will expect applicants to offer to meet the licensing objectives.

Bingo

107. This policy applies to applications for a Bingo Premises Licence. Bingo has its ordinary and natural meaning and includes any version of the game irrespective of by what name it is described. A holder of a bingo Premises Licence will be able to offer bingo in all its forms.

108. Children and young persons are permitted in bingo premises, but may not participate in the bingo. If any Category B or C machines are made available for use, these must be separated from areas where children and young people are allowed.
109. The Licensing Authority expects that where children are permitted in bingo premises, any Category B or C machines are located in an area which is separated from the rest of the premises by barriers or in a separate room, where it is made clear that entry is permitted only for those aged 18 or over. Appropriate signage should be provided to this effect and the area should be monitored by staff, either through direct supervision or by monitored CCTV.
110. To avoid a situation where a premises holds a bingo Premises Licence primarily to benefit from the gaming machine allowance, the Licensing Authority will need to be satisfied that bingo is regularly played in any premises for which a Premises Licence is issued and that the premises presentation is clearly that of a bingo premises and readily identifiable as such to any customer using the premises.
111. In determining applications for bingo premises, the Licensing Authority shall consider the following:
- proof of age schemes
 - CCTV
 - entry control system
 - staff numbers
 - staff training
 - supervision of entrances/ machine areas
 - whether children are permitted on the premises and, if so, how the operator intends to prevent them from playing bingo or being able to access adult only machine areas
 - notices/ signage
 - opening hours
 - the times and frequency of which bingo is offered
 - whether bingo is offered by a caller or only electronically
 - whether the premises are clearly identifiable as being licensed for the purposes of offering bingo facilities
 - provision of responsible gambling information

This list is not exhaustive, and is merely indicative of example measures the Licensing Authority will expect applicants to offer to meet the licensing objectives.

112. Young persons, aged 16 and 17, may be employed in bingo premises provided their duties are not connected with the gaming or gaming machines. The Licensing Authority will not grant licences unless the applicant demonstrates how they intend to meet this licensing objective and identify appropriate measures they will take to protect young employees.

113. Where hand held gaming devices are to be used on bingo premises, the Licensing Authority expects applicants to demonstrate how use of these devices will be monitored by staff.

Betting Premises

114. This policy applies to applications for off-course betting premises. This is betting that takes place other than at a track, typically in a betting shop.
115. The Licensing Authority must be satisfied that the primary use of the premises is to operate as betting premises. The applicant will be expected to demonstrate they are offering sufficient facilities for betting or otherwise should not make gaming machines available on the premises.
116. In determining applications for betting premises, the Licensing Authority shall consider the following:
- proof of age schemes
 - CCTV
 - entry control system
 - staff numbers
 - staff training
 - counter layout
 - supervision of entrances/ machine areas
 - machine privacy screens
 - notices/ signage
 - opening hours
 - provision of responsible gambling information

This list is not exhaustive, and is merely indicative of example measures the Licensing Authority will expect applicants to offer to meet the licensing objectives.

117. Betting machines made available at betting premises that accept bets on live events such as horse racing (SSBT's or self-service betting terminals) are not gaming machines and therefore do not count towards the total number of gaming machines that may be permitted at betting premises. However, where a machine is made available to take bets on 'virtual' races (e.g. results/images generated by a computer to resemble a real race or event), that IS a gaming machine and counts towards the maximum permitted number of gaming machines, and is subject to the relevant statutory limits on stakes and prizes.
118. Section 181 of the Gambling Act 2005 permits the Licensing Authority to restrict the number of SSBT's, their nature and the circumstances in which they may be made available by attaching a relevant condition to a Premises Licence for a betting office. When considering whether to do so, the Licensing Authority

will consider, among other things, the ability of employees to monitor the use of the machines by children and young persons or by vulnerable people.

119. The Licensing Authority when considering the number, nature and circumstances of self-service betting terminals an operator wants to offer will take into account the size of the premises, the number of counter positions available for person-to-person transactions, and the ability of staff to monitor the use of the machines.
120. Where an SSBT includes functionality to be marketed or presented in languages other than English, the Licensing Authority will seek to ensure the operator has considered the ordinary code provision set by the Gambling Commission about making the following information also available in the relevant languages:
 - information on how to gamble responsibly and access the help referred to in the Gambling Commission's Licence Conditions and Codes of Practice;
 - the player's guide to any game, bet or lottery under the provisions of the Gambling Commission's Licence Conditions and Codes of Practice;
 - the summary of the contractual terms on which gambling is offered, which is a condition of the licence holder's Operating Licence issued by the Gambling Commission.

Betting Tracks and Other Sporting Venues

121. Tracks include premises where a race or other sporting event takes place, or is intended to take place. These may be subject to one or more than one Premises Licence, provided each licence relates to a specified area of the track. The Gambling Commission Guidance identifies that operators of track betting premises will not necessarily hold an Operating Licence issued by the Commission. The Licensing Authority will have particular regard to proposals and measures to ensure the environment in which betting takes place is suitable for betting and that betting is conducted in a fair and open way.
122. Examples of tracks include:
 - Horse racecourses
 - Greyhound tracks
 - Point to point meetings
 - Football, cricket and rugby grounds
 - Athletics stadia
 - Golf courses
 - Venues hosting darts, bowls or snooker tournaments
 - Premises staging boxing matches
 - Sections of river hosting fishing competitions
 - Motor racing events

123. The offence of permitting a child or young person to enter gambling premises under section 47 of the Act does not apply to tracks. Therefore the Licensing Authority will consider the impact upon the objective of protection of children and vulnerable persons, the need to ensure that entrances to each type of licensed premises within the sporting venue are distinct, and that children are excluded from gambling areas which they are not permitted to enter.
124. The possibility of multiple licences at tracks is noted in Part 20 of the Gambling Commission Guidance. The Licensing Authority will expect the applicant for a Premises Licence to demonstrate suitable measures to ensure that children do not have access to adult-only gaming facilities. Children and young persons are permitted to enter track areas where facilities for betting are provided on days when dog-racing and/or horse racing takes place, but are still prevented from entering areas where gaming machines (other than Category D machines) are provided. Children and young persons are not prohibited from playing Category D machines on a track.
125. In determining applications for betting at tracks, consideration will be given to appropriate measures/licensing conditions to address the matters listed below:
- proof of age schemes such as Think 21
 - CCTV
 - entry control system
 - supervision of entrances/ machine areas
 - physical separation of areas
 - notices/ signage
 - opening hours
 - provision of responsible gambling information
 - provision of policies and procedures in relation to social responsibility measures as set out below
 - staffing levels
 - staff training and records of staff training
 - recording of incidents such as underage challenges, customer interactions for problem gambling, self-exclusions and complaints and disputes relating to gambling
 - details of action to be taken where an on course bookmaker has breached their Gambling Commission Operating Licence conditions repeatedly, for example where children have been able to gamble.

This list is not exhaustive, and is merely indicative of example measures the Licensing Authority will expect applicants to offer to meet the licensing objectives.

126. Track betting operators must be able to demonstrate their adoption of socially responsible gambling policies and procedures. Such policies and procedures must ensure that track betting activities promote the licensing objectives of ensuring that gambling is conducted in a fair and open way and children and other vulnerable people are not harmed or exploited by gambling.

127. A track Premises Licence does not in itself entitle the holder to provide gaming machines. However, by virtue of section 172(9) of the Act, track owners who hold both a track Premises Licence AND a pool betting Operating Licence issued by the Gambling Commission (this currently only applies to greyhound tracks) may provide up to four Category B2 to D gaming machines on the track.
128. The Licensing Authority will consider the location of gaming machines at tracks, and applicants for track Premises Licences will need to demonstrate that, where the applicant holds or seeks a pool betting Operating Licence and is going to use their full entitlement to gaming machines, these machines are located in areas from which children are excluded. The applicant will be required to provide information as to what measures it will put in place around the gaming machines to ensure that children are excluded.
129. The Licensing Authority will expect applicants to include detailed plans for the track itself and the area that will be used for temporary “on-course” betting facilities (often known as the “betting ring”), pool betting, and any other proposed gambling facilities. Plans should make clear what is being sought for authorisation under the track betting Premises Licence and what, if any, other areas are to be subject to a separate application for a different type of Premises Licence. Any such plans must also contain the information prescribed by regulations.
130. In respect of staff training, the Licensing Authority would expect staff involved with the provision of gambling facilities at the track to be trained in social responsibility measures including, but not limited to, age verification, problem gambling indicators and action to be taken, self-exclusion, complaints procedures and money laundering indicators and action to be taken. Records of such training should be retained by the track management showing the subjects the staff member was trained in and the date training took place. These should be signed off by the staff member and training should be refreshed at least annually.
131. The Licensing Authority expects track operators to have policies and procedures in place to deal with age verification, self-exclusion, money laundering, complaints and disputes and problem gambling as a minimum and to ensure that all staff involved in the provision of gambling facilities are aware of these policies and procedures and have been trained in their implementation.
132. The Licensing Authority expects track management to ensure appropriate problem gambling information is provided commensurate to the size and layout of the premises. This should be in the form of posters and also leaflets which a customer can take away. Leaflets should be provided in areas where they can be taken away discreetly by the customer.
133. Section 152 of the Act permits tracks to be the subject of multiple Premises Licences.

134. Access between premises licensed for gambling and non-gambling areas will be considered carefully by the Licensing Authority for the following reasons:
- To prevent operators from attempting to circumvent the Act by artificially sub-dividing premises and securing separate Premises Licences for its composite parts;
 - To ensure operators do not circumvent the regulations governing the maximum number of gaming machines that may be provided at specific premises;
 - To ensure people who have entered premises to take part in one form of gambling are not exposed to another form of gambling;
 - To ensure there is no direct access between gambling premises to which children have access and those which they are prohibited from entering;
 - To ensure all gambling premises have publicly accessible entrances;
 - To ensure gambling premises are not developed in 'back rooms' of other commercial premises.

Adult Gaming Centres (AGC's)

135. Adult gaming centre (AGC) Premises Licences allow the holder of the licence to make gaming machines available for use on the premises. Persons operating an AGC must hold a relevant Operating Licence from the Gambling Commission and must seek a Premises Licence from the Licensing Authority. Gaming machines are a form of gambling attractive to children and AGC's may contain machines of a similar format to the Category D machines on which children are allowed to play. However, persons under the age of 18 are not permitted to enter an AGC.
136. Because gaming machines provides opportunities for solitary play and immediate pay-outs, they are more likely to engender repetitive and excessive play. The Licensing Authority in considering Premises Licences for AGC's will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to, for example, ensure that under 18 year olds are not attracted to, or gain access to, the premises.
137. The Licensing Authority will expect applicants to offer their own measures to meet the licensing objectives; however appropriate measures / licence conditions may cover issues such as:
- proof of age schemes
 - CCTV
 - entry control system
 - supervision of entrances/ machine areas
 - physical separation of areas
 - notices/ signage
 - opening hours
 - staffing levels

- staff training
- provision of problem gambling information
- self-exclusion schemes

This list is not exhaustive, and is merely indicative of example measures the Licensing Authority will expect applicants to offer to meet the licensing objectives.

Family Entertainment Centres (FEC's)

138. Generally, FEC's must be operated by a person or body having an Operating Licence from the Gambling Commission. Unlicensed Family Entertainment Centres do not require the operator to have a Gambling Commission Operator's Licence or Premises Licence from the Licensing Authority, but do need to have a gaming machine permit as set out in the section on Permits. Unlicensed Family Entertainment Centres may only be used to provide Category D gaming machines.
139. Gaming machines are a form of gambling which is attractive to children and licensed FEC's will contain both Category D machines on which they are allowed to play, and Category C machines on which they are not. Because gaming machines provide opportunities for solitary play and for immediate pay-outs, they are more likely to engender repetitive and excessive play. The Licensing Authority, in considering applications for FEC Premises Licences, will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority, for example, that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machine areas.
140. The Licensing Authority will expect applicants to offer their own measures to meet the licensing objectives however appropriate measures/ licence conditions may cover issues such as:
- CCTV
 - supervision of entrances/ machine areas
 - physical separation of areas for Category C machines
 - location of entry
 - notices/ signage
 - opening hours
 - staffing levels
 - staff training
 - self-exclusion schemes
 - provision of problem gambling information
 - measures and training for dealing with children on the premises suspected of truanting.

This list is not exhaustive, and is merely indicative of example measures the Licensing Authority will expect applicants to offer to meet the licensing objectives.

141. The Licensing Authority expects applicants to demonstrate adequate separation between the area in which Category C gaming machines are made available and areas of the premises to which children may have access. This will include whether physical separation is provided, staff supervision, signage and layout and presentation of the premises as a minimum. Operators should be aware of the risk of children entering adult only areas to speak to a parent who may be gambling in that area for example and have appropriate controls in place to reduce the risk of this.

Door Supervisors

142. The Gambling Commission Guidance advises that Licensing Authorities may consider whether there is a need for door supervision in terms of the licensing objectives of protection of children and vulnerable persons from being harmed or exploited by gambling, but there can also be a need for supervision to stop premises becoming a source of crime. Door supervisors at casinos or bingo premises are not required to be registered by the Security Industry Authority (SIA) under the Private Security Industry Act 2001. Door supervisors not directly employed by a casino or bingo operator do however have to be SIA registered.
143. For betting offices and other premises, the operator and/or the Licensing Authority may decide that supervision of entrances or machines is appropriate in particular cases. The Licensing Authority will make door supervision a requirement where there is evidence, from the history of trading at the premises or in the area, which the premises cannot be adequately supervised by counter staff or that problem customers cannot be dealt with effectively by counter staff alone and that door supervision is both necessary and proportionate.

Provisional Statements

144. Following the grant of a provisional statement, no further representations from responsible authorities or interested parties can be taken into account unless they concern matters which could not have been addressed at the provisional statement stage, or they reflect a change in the applicant's circumstances. In addition, the authority may refuse the Premises Licence (or grant it on terms different to those attached to the provisional statement) only by reference to matters:
 - (a) which could not have been raised by objectors at the provisional licence stage; or
 - (b) which in the authority's opinion reflect a change in the operator's circumstances.

Reviews

145. Requests for a review of a Premises Licence can be made by interested parties or responsible authorities, including the Licensing Authority. However, it is for the Licensing Authority to decide whether the review is to be carried out. This will be on the basis of whether the request for the review is relevant to the matters listed below:
- any relevant Code of Practice issued by the Gambling Commission;
 - any relevant guidance issued by the Gambling Commission;
 - the licensing objectives;
 - this Statement of Principles.
146. The Licensing Authority may reject an application for review if it thinks the grounds on which the review is sought:
- a) are not relevant to the relevant code of practice or guidance issued by the Gambling Commission, the licensing objectives or the Licensing Authority's statement of principles;
 - b) are frivolous;
 - c) are vexatious;
 - d) 'will certainly not' cause the Licensing Authority to revoke or suspend the licence or to remove, amend or attach conditions on the Premises Licence;
 - e) are substantially the same as grounds cited in a previous application relating to the same premises (the Licensing Authority will consider the length of time that has passed since the earlier application in deciding whether this is a reasonable reason to reject the review application);
 - f) are substantially the same as representations made at the time the application for the Premises Licence was considered. While the Licensing Authority will consider the length of time that has passed since the representations were made, it will not normally review a licence on the basis of the same arguments considered on the grant of the Premises Licence.
147. General objections to gambling as an activity are not likely to be considered relevant reasons for a review. Other examples of irrelevant considerations include demand for gambling premises, issues relating to planning, public safety and traffic congestion.
148. The Licensing Authority can initiate a review of a particular Premises Licence, or any particular class of Premises Licence, for any reason it believes is appropriate. This includes reviewing a Premises Licence on the grounds that a Premises Licence holder has not provided facilities for gambling at the premises. This is to prevent people from applying for licences in a speculative manner without intending to use them.
149. The Licensing Authority may review any matter connected with the use made of a particular premises if it has reason to believe the Premises Licence conditions are not being observed, or for any other reason which gives it cause to believe a review may be appropriate.

150. A responsible authority or interested party may apply to the Licensing Authority to review a Premises Licence. Such reviews can be made in relation to, amongst other things if there are repeated incidents of crime and disorder associated with the premises or the gambling activity which the premises operator has failed to adequately address, where incidents that have adversely effected one or more licensing objectives have occurred at premises that could have been prevented if advice and guidance from a responsible authority had been heeded, or if the premises due to the activities being undertaken is either attracting children or people likely to be involved in crime and disorder.
151. As a review of a Premises Licence can lead to its revocation, the Licensing Authority will consider whether informal actions to ensure timely or immediate compliance have been exhausted prior to an application being made. The Licensing Authority accepts that an application for review may be appropriate without informal measures being taken, but will seek to establish that all options have been considered in determining review applications.

Chapter Five

Travelling Fairs and Permits

Travelling Fairs

152. The Act defines a travelling fair as 'wholly or principally' providing amusements and they must be on a site that has been used for fairs for no more than 27 days per calendar year. Travelling fairs do not require a permit to provide gaming machines but must comply with legal requirements about the way the machines are operated.
153. It will fall to the Licensing Authority to decide whether, where Category D machines and/or equal chance prize gaming without a permit is to be made available for use at travelling fairs, the statutory requirement that the facilities for gambling amount to no more than an ancillary amusement at the fair is met.
154. The Licensing Authority will also consider whether the applicant falls within the statutory definition of a travelling fair. The 27 day statutory maximum for the land being used as a fair each calendar year applies to the piece of land on which the fairs are held, regardless of whether it is the same or different travelling fairs occupying the land. The Licensing Authority will keep a record of any travelling fairs that take place in Tonbridge & Malling Borough Council that offer gambling as an ancillary use to the fair. The Licensing Authority will ensure the 27 day statutory maximum for the land being used is not breached. The Licensing Authority will advise travelling fair operators if requested of the statutory time period remaining for the land they intend to use.

Permits

155. Permits regulate gambling and the use of gaming machines in a premises which do not hold a Premises Licence. They are required when a premises provides gambling facilities but either the stakes are very low or gambling is not the main function of the premises.

The Licensing Authority is responsible for issuing the following permits:

- a) unlicensed family entertainment centre gaming machine permits;
 - b) alcohol licensed gaming machine permits;
 - c) prize gaming permits;
 - d) club gaming permits and club machine permits.
156. The Licensing Authority can only grant or reject an application for a permit and cannot attach conditions. Therefore, the Licensing Authority will consider a number of factors before determining an application for a permit to ensure that the permit holder and the premises are suitable for the proposed gambling activities.

Unlicensed family entertainment centre gaming machine permits

157. This policy applies to those premises that are proposed to be used as Unlicensed Family Entertainment Centres (uFEC's). uFEC's are premises primarily used for making gaming machines available that offer only Category D gaming machines. A uFEC permit allows any number of these machines to be made available at the premises (subject to other considerations such as health and safety and fire regulations). Given that Category D machines have no age restrictions, these premises particularly appeal to children and young persons. Therefore, the Licensing Authority will give particular weight to matters relating to child protection issues.
158. The Licensing Authority will grant an application for a permit only if it is satisfied that the premises are used wholly or mainly for making gaming machines available for use, and following consultation with the Police.
159. The Licensing Authority will not grant uFEC permits where the premises are not primarily used for making gaming machines available for use in accordance with section 238 of the Gambling Act 2005. This will preclude granting permits to lobbies in shopping centres or motorway service areas for example.
160. In cases where an existing uFEC permit has been granted to premises not primarily used for making gaming machines available, the Licensing Authority shall refuse to renew such permits.
161. Applicants for uFEC permits are expected to provide a scale plan of the premises with their application showing entrances/exits, location of CCTV cameras, cash desk, and machine locations as well as other features such as a bowling alley for example or play area which may form part of the premises.
162. The Licensing Authority will require applicants to demonstrate as a minimum:
 - a full understanding of the maximum stakes and prizes of gambling that is permissible in unlicensed FECs;
 - that problem gambling information will be provided in the premises commensurate with its size and layout;
 - that the applicant has a written policy in place to deal with complaints and disputes which can be given to a customer on request;
 - that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act);
 - that staff are trained to recognise problem gambling and signpost a customer to problem gambling information;
 - that staff have been trained in how to deal with complaints and disputes in line with the applicant's policy.
163. The Licensing Authority will expect the applicant to show there are policies and procedures in place to protect children and vulnerable people from harm. Harm in this context is not limited to harm from gambling but includes wider child

protection considerations. The efficiency of such policies and procedures will each be considered on their merits. However, they may include:

- measures/training for staff regarding suspected truant school children on the premises;
- measures/training covering how staff will deal with unsupervised very young children being on the premises;
- measures/training covering how staff would deal with children causing perceived problems on or around the premises.

Automatic entitlement to two gaming machines

164. Premises licensed to sell alcohol on the premises under the Licensing Act 2003 are automatically entitled to provide two gaming machines of Category C and/or D. The holder of the Premises Licence under the Licensing Act 2003 must notify the Licensing Authority of their intention to make the gaming machines available for use and must pay the prescribed fee.
165. This entitlement only relates to premises with a Licensing Act 2003 Premises Licence that authorises the sale of alcohol for consumption on the premises and which contain a bar at which alcohol is served without the requirement that alcohol is only sold ancillary to the provision of food.
166. Licensees siting gaming machines must comply with the relevant Gambling Commission Code of Practice.
167. Licensees must be aware that gaming machines can only be supplied by a person holding an Operating Licence from the Gambling Commission enabling them to do this. A register of licensed suppliers can be found on the Gambling Commission's website at www.gamblingcommission.gov.uk.
168. In the event that the relevant authorisation under the Licensing Act 2003 is transferred, lapses or is revoked, the automatic entitlement to two gaming machines ceases to have effect and a new notification will need to be served on the Licensing Authority.
169. The Licensing Authority will remove the automatic authorisation in respect of any particular premises if:
 - provision of the machines is not reasonably consistent with the pursuit of the licensing objectives;
 - gaming has taken place on the premises that breaches a provision of section 282 of the Gambling Act (i.e. that written notice has been provided to the Licensing Authority, that a fee has been provided and that any relevant code of practice issued by the Gambling Commission about the location and operation of the machine has been complied with);
 - the premises are mainly used for gaming; or

- an offence under the Gambling Act has been committed on the premises.

Permit for three or more gaming machines

170. This policy applies to alcohol licensed premises that propose to have three or more gaming machines. Licensed premises wishing to have three or more gaming machines of Category C or D must apply to the Licensing Authority for a permit. This permit will replace the automatic entitlement to two gaming machines rather than be in addition to it and the holder must comply with the relevant Gambling Commission Code of Practice.
171. As gaming machines provide opportunities for solitary play and immediate payouts, they are more likely to engender repetitive and excessive play. The Licensing Authority, on considering an application, will consider whether granting a permit would be appropriate on a case by case basis, but will specifically have regard to:
- the need to protect children and vulnerable people from harm or being exploited by gambling;
 - measures taken by the applicant to satisfy the Licensing Authority that there are sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machines;
 - whether the applicant has an effective policy in place for handling customer complaints or disputes about the gaming machines.
172. The Licensing Authority will expect applicants to offer their own measures to meet the licensing objectives. However, appropriate measures may cover issues such as:
- the adult machines being in the sight of staff who will monitor that the machines are not being used by those under 18 and look for signs of problem gambling, attempts to cheat the machine, or suspected money laundering;
 - notices and signage;
 - the provision of information leaflets or helpline numbers for organisations who can assist with problem gambling.
173. If the Licensing Authority is not satisfied that appropriate measures have been taken by the applicant to comply with this policy, it may refuse to grant the permit, or it may vary the number or category of gaming machines authorised by the permit.
174. The Licensing Authority may cancel a permit or may vary the number or category (or both) of gaming machines authorised by it if:
- (a) it would not be reasonably consistent with pursuit of the licensing objectives for the permit to continue to have effect,

- (b) gaming has taken place on the premises in purported reliance on the permit but otherwise than in accordance with the permit or a condition of the permit,
 - (c) the premises are mainly use or to be used for making gaming machines available, or,
 - (d) an offence under the Gambling Act 2005 has been committed on the premises.
175. Before the Licensing Authority cancels or varies a permit it will give the permit holder 21 days' notice of its intention and allow him/her the opportunity to make a representation. If the permit holder requests a hearing the Licensing Authority will arrange a Licensing Sub-Committee hearing to consider the permit holder's representation and any other evidence available before making its determination.
176. When determining an application for an alcohol-licensed premises gaming machine permit, the Licensing Authority will consider each application on its own merits.

Prize Gaming Permits

177. This policy applies to applications for, or renewals of, Prize Gaming Permits. Gaming is prize gaming if the nature and size of the prize is not determined by the number of people playing or the amount paid for or raised by the gaming. Normally the prizes are determined by the operator before play commences.
178. Prize gaming may take place without a permit in various premises. These are casinos, bingo halls, adult gaming centres, licensed and unlicensed family entertainment centres and travelling fairs.
179. Given that the prize gaming will particularly appeal to children and young persons, the Licensing Authority will give weight to child protection issues.
180. The applicant will be expected to set out the types of gaming that they are intending to offer and will also be expected to demonstrate:
- an understanding of the limits to stakes and prizes set out in regulations;
 - that the gaming offered is within the law;
 - clear policies that outline the steps to be taken to protect children and vulnerable persons from harm.
181. The Licensing Authority will only grant a permit after consultation with the Police. This will enable the Licensing Authority to determine the suitability of the applicant in terms of any convictions that they may have that would make them unsuitable to operate prize gaming, the suitability of the premises in relation to their location, and issues about disorder.
182. There are conditions in the Act with which the permit holder must comply, though the Licensing Authority cannot attach conditions. The conditions in the Act are:

- the limits on participation fees, as set out in regulations, must be complied with;
- all chances to participate in the gaming must be allocated on the premises on which the gaming is taking place and on one day; the game must be played and completed on the day the chances are allocated; and the result of the game must be made public in the premises on the day that it is played;
- the prize for which the game is played must not exceed the amount set out in regulations (if a money prize), or the prescribed value (if non-monetary prize); and
- participation in the gaming must not entitle the player to take part in any other gambling.

Club Gaming and Club Machine Permits

183. Members clubs and miners' welfare institutes (but not commercial clubs) may apply for a club gaming permit or a club machine permit. Commercial clubs such as snooker clubs run on a profit basis may apply for a club machine permit. Each type of permit allows the provision of different types of gaming and provision of game machines. The current entitlements can be found by visiting the Gambling Commission's website (www.gamblingcommission.gov.uk).
184. A commercial club is defined as a club where membership is required but the club is operated for commercial gain.
185. A non-commercial club is a club where no commercial gain is made. A non-commercial club must meet the following criteria to be considered a members' club:
- it must have at least 25 members;
 - it must be established and conducted wholly or mainly for purposes other than gaming (with the exception of bridge or whist);
 - it must be permanent in nature;
 - it must not be established to make a commercial profit;
 - it must be controlled by its members equally.

Examples of these include working men's clubs, branches of the Royal British Legion and clubs with political affiliations.

186. The Licensing Authority may only refuse an application on the grounds that:
- a) the applicant does not fulfil the requirements for a members' or commercial club or miners' welfare institute and therefore is not entitled to receive the type of permit for which it has applied;
 - b) the applicant's premises are used wholly or mainly by children and/ or young persons;

- c) an offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities;
 - d) a permit held by the applicant has been cancelled in the previous ten years; or
 - e) an objection has been lodged by the Gambling Commission or the Police.
187. There is also a “fast-track” procedure available under the Act for premises that hold a club premises certificate under the Licensing Act 2003. Under the fast-track procedure there is no opportunity for objections to be made by the Gambling Commission or the Police, and the grounds upon which a Licensing Authority can refuse a permit are reduced. The grounds on which an application under this process may be refused are that:
- (a) the club is established primarily for gaming, other than gaming prescribed under schedule 12;
 - (b) in addition to the prescribed gaming, the applicant provides facilities for other gaming; or
 - (c) a club gaming permit or club machine permit issued to the applicant in the last ten years has been cancelled.
188. There are statutory conditions on club gaming permits that no child may use a Category B or C gaming machine on the premises and that the holder complies with any relevant provision of a Gambling Commission Code of Practice about the location and operation of gaming machines.
189. The Licensing Authority will need to satisfy itself that the club meets the requirements of the Gambling Act 2005 to hold a club gaming permit. In order to do this, it may require proof of additional information from the operator such as:
- is the primary activity of the club something other than gaming?
 - are the club’s profits retained solely for the benefit of the club’s members?
 - are there 25 or more members?
 - are the addresses of members of the club genuine domestic addresses and do most members live reasonably locally to the club?
 - do members participate in the activities of the club via the internet?
 - do guest arrangements link each guest to a member?
 - is the 48 hour rule being applying for membership and being granted admission being adhered to?
 - are there annual club accounts available for more than one year?
 - how is the club advertised and listed in directories and on the internet?
 - are children permitted in the club?
 - does the club have a constitution and can it provide evidence that the constitution was approved by members of the club?
 - is there a list of Committee members and evidence of their election by the club members?

190. When examining the club's constitution, the Licensing Authority would expect to see evidence of the following:

- Who makes commercial decisions on behalf of the club?
- Are the aims of the club set out in the constitution?
- Are there shareholders or members? Shareholders indicate a business venture rather than a non-profit making club.
- Is the club permanently established? (Clubs cannot be temporary).
- Can people join with a temporary membership? What is the usual duration of membership?
- Are there long term club membership benefits?

191. Aside from bridge and whist clubs, clubs may not be established wholly or mainly for the purposes of gaming. The Licensing Authority may consider such factors as:

- How many nights a week gaming is provided;
- How much revenue is derived from gambling activity versus other activity;
- How the gaming is advertised;
- What stakes and prizes are offered;
- Whether there is evidence of leagues with weekly, monthly or annual winners;
- Whether there is evidence of members who do not participate in gaming;
- Whether there are teaching sessions to promote gaming such as poker;
- Where there is a tie-in with other clubs offering gaming through tournaments and leagues;
- Whether there is sponsorship by gaming organisations;
- Whether participation fees are within limits.

Chapter Six

Notices

Temporary Use Notices

192. This policy applies to applications for Temporary Use Notices. Temporary Use Notices allow the use of premises for gambling where there is no Premises Licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling. Premises that might be suitable for gambling would include hotels, conference centres and sporting venues.
193. The Licensing Authority can only grant a Temporary Use Notice to a person or a company holding a relevant Operating Licence.
194. Currently, Temporary Use Notices can only be used to permit the provision of facilities for equal chance gaming, where the gaming is intended to produce a single overall winner.
195. The Licensing Authority, in considering applications for Temporary Use Notices, will consider whether gambling should take place, or should only take place with modifications to the TUN. In doing so, the Licensing Authority will consider:
- the suitability of the premises;
 - the location of the premises, paying particular attention to its proximity to any schools, hostels or other sensitive premises;
 - the CCTV coverage within the premises;
 - the ability of the premises to provide sufficient staff and/or licensed door supervisors for the notice period;
 - whether the premises or the holder of the Operating Licence have given the Licensing Authority any cause for concern at previous events in relation to the licensing objectives, the guidance issued by the Gambling Commission, the relevant code of practice or this Statement of Principles.

Occasional Use Notices

196. The Licensing Authority has very little discretion on Occasional Use Notices for betting at tracks aside from ensuring the statutory limit of eight days a calendar year is not exceeded. The Licensing Authority will consider the definition of a “track” and whether the applicant can demonstrate they are responsible for the administration of the “track” or an occupier, and thus permitted to avail themselves of the notice. The definition of “track” in the Act is wider than dog tracks or horse racecourses and includes places where races or other sporting events take place. This could include major halls, hotels and other venues. If notices are given for a single track which would permit betting to occur for more than eight days per year, the Licensing Authority is obliged to issue a counter notice preventing such a breach occurring.

Chapter Seven

Small Society Lotteries

197. The Gambling Act 2005 provides that promoting or facilitating a lottery is illegal, unless it falls into one of two categories of permitted lottery, namely:

- licensed lotteries – these are large society lotteries and lotteries run for the benefit of local authorities that are regulated by the Commission and require operating licences
- exempt lotteries – there are four types of exempt lottery that are expressly permitted under Schedule 11 of the Act, including the small society lottery.

Definition of lottery

198. A lottery is any arrangement that satisfies all of the criteria contained within the statutory description of either a simple lottery or a complex lottery, under s.14 of the Gambling Act 2005.

199. An arrangement is a simple lottery if:

- persons are required to pay to participate
- one or more prizes are allocated to one or more members of a class
- the prizes are allocated by a process which relies wholly on chance.

200. An arrangement is a complex lottery if:

- persons are required to pay to participate
- one or more prizes are allocated to one or more members of a class
- the prizes are allocated by a series of processes
- the first of those processes relies wholly on chance.

Definition of society

201. A 'society' is the society, or any separate branch of such a society, on whose behalf a lottery is to be promoted. Section 19 of the Gambling Act 2005 defines a society as such if it is established and conducted:

- for charitable purposes, as defined in s.2 of the Charities Act 2006
- for the purpose of enabling participation in, or of supporting, sport, athletics or a cultural activity
- for any other non-commercial purpose other than that of private gain.

202. It is inherent in this definition that the society must have been established for one of the permitted purposes as set out in s.19 of the Act, and that the proceeds of any lottery must be devoted to those purposes. It is not permissible to establish a society whose sole purpose is to facilitate lotteries.

203. Participation in a lottery is a form of gambling. Lotteries must be conducted in a socially responsible manner and in accordance with the Act.
204. The minimum age for participation in a lottery is sixteen. The holder of a small society lottery registration must take reasonable steps to ensure that all those engaged in the promotion of their lottery understand their responsibilities for preventing underage gambling, returning stakes and not paying prizes to underage customers.

External Lottery Managers

205. External lottery managers (ELM's) are required to hold a lottery operator's licence issued by the Gambling Commission to promote a lottery on behalf of a licensed society.
206. However, individuals or firms can and do provide services to a society or local authority lottery without assuming the role of an ELM. When determining whether a third party is a 'service provider' only, or has assumed the role of an ELM, the degree of management undertaken by both the promoter and the sub-contractor will be crucial factors. Key indicators will include:
- who decides how the lottery scheme will operate
 - who appoints and manages any sub-contractors
 - the banking arrangements for handling the proceeds of the lottery
 - who sells the tickets and pays the prizes
 - who controls promotional aspects of the lottery.
207. Societies employing an unlicensed ELM may be committing an offence and they will need to satisfy themselves that any ELM they employ holds the relevant operator's licence issued by the Commission. The Commission publishes a register of operating licences on its website at www.gamblingcommission.gov.uk.

Lottery Tickets

208. Lotteries may involve the issuing of physical or virtual tickets to participants (a virtual ticket being non-physical, for example in the form of an email or text message). All tickets must state:
- the name of the promoting society
 - the price of the ticket, which must be the same for all tickets (e.g. there can be no option to 'buy two tickets, get one free')
 - the name and address of the member of the society who is designated as having responsibility at the society for promoting small lotteries or, if there is one, the ELM
 - the date of the draw, or information which enables the date to be determined.

209. The requirement to provide this information can be satisfied by providing an opportunity for the participant to retain the message electronically or print it.
210. The society should maintain written records of any unsold and returned tickets for a period of one year from the date of the lottery draw. The Licensing Authority may wish to inspect the records of the lottery for any purpose related to the lottery.

Where tickets may be sold

211. The Licensing Authority expects holders of small society lottery registrations not to sell lottery tickets to a person in any street. For these purposes 'street' includes any bridge, road, lane, footway, subway, square, court, alley or passage (including passages through enclosed premises such as shopping malls) whether a thoroughfare or not. Tickets may, however, be sold in a street from a static structure such as a kiosk or display stand. Tickets may also be sold door to door. Licensees must ensure that they have any necessary local authority permissions, such as a street trading licence, in order to do this.

Prizes

212. Prizes awarded in small society lotteries can be either cash or non-monetary. Prizes declared on returns must not exceed the limits on prizes set out by the Act - in effect that combined with any expenses incurred with the running of the lottery, such as managers' fees, they must not comprise more than 80% of the total proceeds of the lottery. Donated prizes would not be counted as part of this 80% (as no money would be withdrawn from the proceeds to cover their purchase) but are still subject to the limit on a single maximum prize of £25,000 and should be declared on the return following the lottery draw.
213. Alcohol should not be offered as a prize in a lottery without the society first ensuring that no Licensing Act 2003 consent is required for this from the Licensing Authority. If such consent is required, then alcohol shall not be offered as a prize unless such consent has been obtained.

Small society registration

214. The promoting society of a small society lottery must, throughout the period during which the lottery is promoted, be registered with a Licensing Authority. Parts 4 and 5 of Schedule 11 of the Act set out the requirements on both societies and Licensing Authorities with respect to the registration of small society lotteries.
215. The Licensing Authority with which a small society lottery is required to register must be in the area where their principal office is located.

216. Applications for small society lottery registrations must be in the form prescribed by the Secretary of State and be accompanied by both the required registration fee and all necessary documents required by the Licensing Authority to assess the application. This information shall include a copy of the society's terms and conditions and their constitution to establish that they are a non-commercial society.
217. Societies may not circumvent the requirement to hold a Gambling Commission Lottery Operating Licence by obtaining two or more registrations with the same or different Licensing Authorities. As set out previously, the Act states that a society lottery is a large lottery if the arrangements for it are such that its proceeds may exceed £20,000 in a single lottery, or if the aggregate proceeds in a calendar year exceed £250,000.
218. In cases where a society has separate branches with different aims and objectives, it is acceptable for them to hold more than one licence or registration. However, in cases where a society holds more than one registration and the aims and objectives of those societies are the same, this may constitute a breach of the threshold limits for small society lotteries set out in Schedule 11 of the Act.
219. By virtue of Schedule 11 paragraph 31(5) of the Act, societies may not hold an Operating Licence with the Gambling Commission and a local authority registration with the same aims and objectives at the same time. This paragraph also provides for a statutory period of three years during which a large society cannot convert to small society status.
220. Registrations run for an unlimited period, unless the registration is cancelled.

Refusal of registration

221. The Licensing Authority may propose to refuse an application for any of the following reasons:
 - An operating licence held by the applicant for registration has been revoked or an application for an operating licence made by the applicant for registration has been refused, within the past five years. The Commission will be able to advise the details of people and organisations that have been refused an operating licence or have had an operating licence revoked in the past five years. Licensing Authorities should consult the Commission as part of their consideration process.
 - The society in question cannot be deemed non-commercial.
 - A person who will or may be connected with the promotion of the lottery has been convicted of a relevant offence, listed in Schedule 7 of the Act.
 - Information provided in or with the application for registration is found to be false or misleading.

222. The Licensing Authority may only refuse an application for registration after the society has had the opportunity to make representations. These can be taken at a formal hearing or via correspondence. The Licensing Authority shall inform the society of the reasons why it is minded to refuse registration and provide it with at least an outline of the evidence on which it has reached that preliminary conclusion, in order to enable representations to be made.

Revocation of a small society's registered status

223. The Licensing Authority may revoke the registration of a society if it thinks that they would have had to, or would be entitled to, refuse an application for registration if it were being made at that time. The Licensing Authority will inform the society of the reasons why it is minded to revoke the registration and provide them with the evidence on which it has reached that preliminary conclusion.

Administration and returns

224. The Act requires that a minimum proportion of the money raised by the lottery is channelled to the goals of the society that promoted the lottery. If a small society lottery does not comply with these limits it will be in breach of the Act's provisions, and consequently be liable to prosecution.

225. The limits are as follows:

- at least 20% of the lottery proceeds must be applied to the purposes of the society (Schedule 11, paragraph 33)
- no single prize may be worth more than £25,000 (Schedule 11, paragraph 34)
- rollovers between lotteries are only permitted where every lottery affected is also a small society lottery promoted by the same society, and the maximum single prize is £25,000 (Schedule 11, paragraph 35)
- every ticket in the lottery must cost the same and the society must take payment for the ticket fee before entry into the draw is allowed (Schedule 11, paragraph 37).

226. Paragraph 39 of Schedule 11 in the Act sets out the information that the promoting society of a small society lottery must send as returns to the Licensing Authority with which it is registered, following each lottery held. This information allows Licensing Authorities to assess whether financial limits are being adhered to and to ensure that any money raised is applied for the proper purpose. The following information must be submitted:

- the arrangements for the lottery - specifically the date on which tickets were available for sale or supply, the dates of any draw and the value of prizes, including any donated prizes and any rollover
- the total proceeds of the lottery

- the amounts deducted by the promoters of the lottery in providing prizes, including prizes in accordance with any rollovers
- the amounts deducted by the promoters of the lottery in respect of costs incurred in organising the lottery
- the amount applied to the purpose for which the promoting society is conducted (this must be at least 20% of the proceeds)
- whether any expenses incurred in connection with the lottery were not paid for by deduction from the proceeds, and, if so, the amount of expenses and the sources from which they were paid.

227. Paragraph 39 of Schedule 11 in the Act also requires that returns must:

- be sent to the Licensing Authority no later than three months after the date of the lottery draw, or in the case of 'instant lotteries' (scratchcards) within three months of the last date on which tickets were on sale
- be signed (electronic signatures are acceptable if the return is sent electronically) by two members of the society, who must be aged 18 or older, are appointed for the purpose in writing by the society or, if it has one, its governing body, and be accompanied by a copy of their letter or letters of appointment.

228. The Gambling Commission may inspect a society's returns, although it will not routinely do so. The Licensing Authority is required to retain returns for a minimum period of three years from the date of the lottery draw. They must also make them available for inspection by the general public for a minimum period of 18 months following the date of the lottery draw.

229. The Licensing Authority will monitor the cumulative totals of returns to ensure that societies do not breach the annual monetary limit of £250,000 on ticket sales. The Licensing Authority must notify the Commission if returns reveal that a society's lotteries have exceeded the values permissible, and such notifications will be copied to the society in question. The Gambling Commission will contact the society to determine if they are going to apply for a lottery operator's licence, thereby enabling them to run large society lotteries lawfully, and will inform the Licensing Authority of the outcome of its exchanges with the society.

Appendix One Consultation

A public consultation will be carried out in respect of this Statement of Principles from 22 June 2018 until 31 August 2018. As well as sending consultation letters and emails directly to the parties mentioned in the Introduction and Overview. Public notices will be displayed at the Council offices at (Council offices at Kings Hill and Tonbridge Castle.) for the duration of the consultation and an advertisement of the consultation will be published in the Kent Messenger on Friday 29 June 2018.

Process steps to develop this policy

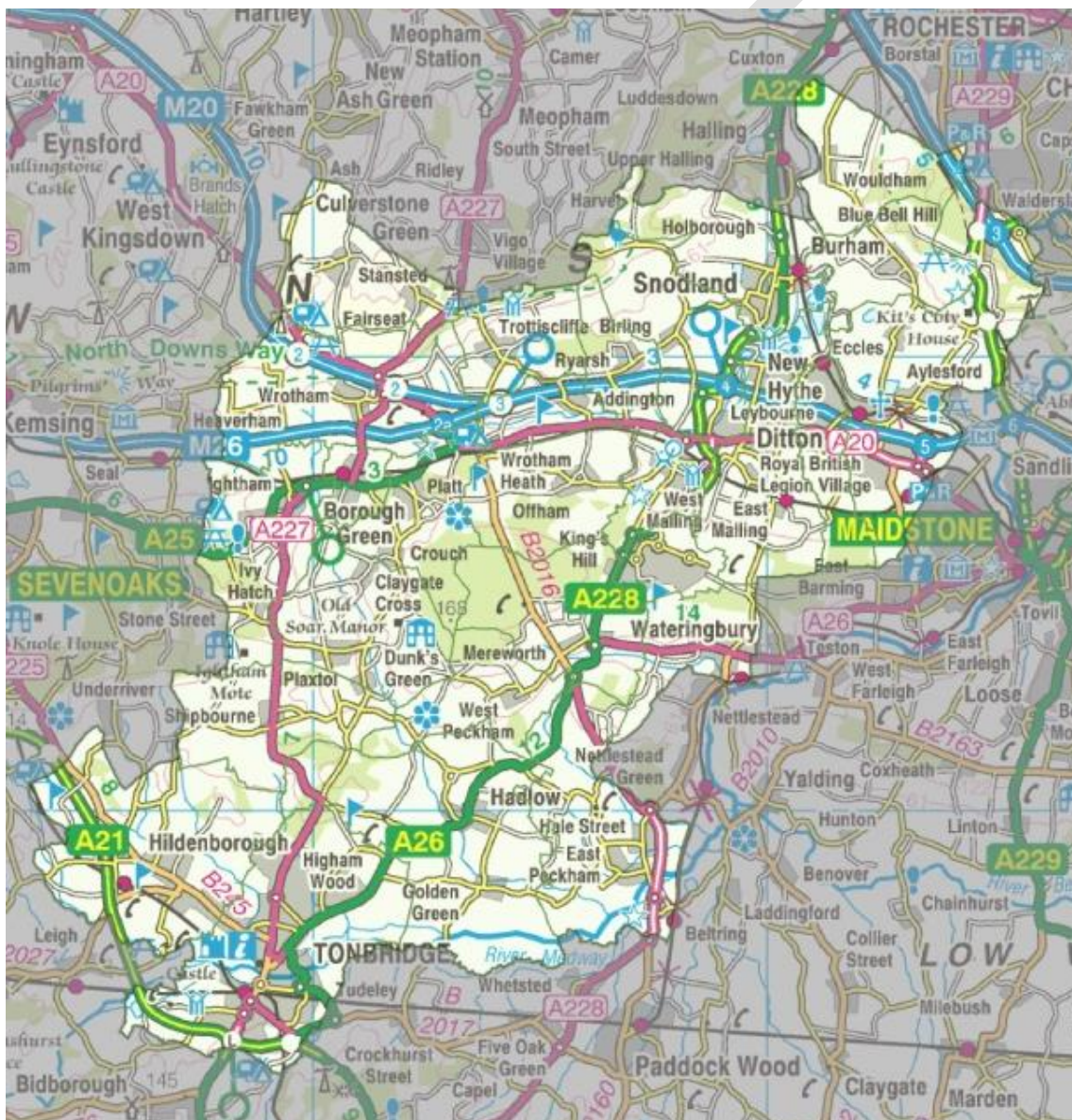
- | | |
|--|--|
| f) Draft consultation agreed at the Licensing and Appeals Committee | 19 June 2018 |
| g) Public Consultation | 22nd June 2018 until
31 st August 2018 |
| h) Licensing and Appeals Committee agrees the policy and recommends to Full Council for adoption | 2 nd October 2018 |
| i) Full Council adopt policy | 30 th October 2018 |
| j) New Policy comes into force | 15 th January 2019 |

Appendix Two Map of the Area Covered by this Statement of Principles

Tonbridge and Malling Borough Council is situated in the County of Kent, which contains 12 District Councils and 1 Unitary Authority in total.

Tonbridge and Malling covers an area of 24,013 hectares. The main towns are Tonbridge, Aylesford, Ditton, Larkfield and Snodland.

The areas are shown in the map below.



If you would like the Statement of Principles for Gambling in large print, please contact the Licensing Team.

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TONBRIDGE & MALLING BOROUGH COUNCIL

LICENSING & APPEALS COMMITTEE

02 October 2018

Report of the Director of Central Services and Monitoring Officer

Part 1- Public

Delegated

1 CHANGES TO ANIMAL LICENSING LEGISLATION

1.1 Executive Overview

1.1.1 On the 1 October 2018 a new statutory instrument (2018 No.486) comes into force, namely The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018.

1.1.2 This new legislation introduce an updated licensing system in England for five activities involving animals: selling animals as pets, providing for or arranging for the provision of boarding for cats or dogs (Home Boarding, Doggie Day Care, Cattery's and Kennels), hiring out horses, dog breeding and keeping or training animals for exhibition. The latter of which was previously administrated by Kent County Council.

1.2 Background

1.2.1 Currently, there are four main Acts which govern licensable activities involving companion animals: the Pet Animals Act 1951; the Animal Boarding Establishments Act 1963; the Riding Establishments Act 1964; and the Breeding of Dogs Act 1973. There is also the Performing Animals (Regulation) Act 1925 which requires individuals who want to exhibit or train any performing animals to register for this purpose under the Act.

1.2.2 At present, local authorities are required by law to issue licences and require registration for specific animal-related establishments and activities, with the aim of maintaining good standards of animal welfare.

1.2.3 Tonbridge and Malling currently has issued seven pet shop licences; eight animal boarding establishments and four home boarding licences; eight riding establishments and one dog breeding establishment.

1.2.4 The existing laws covering the licensing of these activities, are outdated and difficult to adapt to the changing types of animal-related businesses and to new standards of good practice in animal welfare. Moreover, the current application, inspection and enforcement process is complex and burdensome for both

businesses and local authorities. For instance, primary legislation limits licences to a calendar-year framework, arbitrarily focussing inspections at the end of the year, and forcing some businesses with multiple functions to have as many as three separate licences.

- 1.2.5 There are also specific concerns about certain types of activity that are not currently robustly enforced. Online sales of pets have increased dramatically over the last decade. As these types of business do not fall clearly within the definition of pet shop, the current licensing system is not being consistently enforced for such businesses by local authorities. There are also concerns around ‘backstreet dog breeders’ (i.e. smallscale dog breeders who breed dogs in poor welfare conditions for profit), who under current legislation can breed up to four litters per year without requiring a licence.
- 1.2.6 Many businesses under the existing legislation consistently achieve high welfare standards and good performance. Some of these businesses are also members of the UK Accreditation Service’s (“UKAS”) accredited schemes, which can ensure that they meet a higher standard of animal welfare than the current legal minimums. These businesses are currently licensed annually by the relevant local authority, and are charged the same fee as all other establishments. There is a concern that this is overly burdensome for both these high performing businesses and local authorities, and it is suggested that a system of earned recognition could be more efficient, fair and help to promote higher welfare standards.

1.3 Proposed changes

- 1.3.1 The Government believes that new legislation is needed to establish a licensing system that is up to date with modern practices and modern animal welfare standards.
- 1.3.2 This new statute requires that all businesses undertaking these activities meet the same, up-to-date, minimum welfare standards. Businesses will have to be licensed and will have to meet these minimum standards to hold and retain a licence.
- 1.3.3 These are national conditions and cannot be amended, deleted or added to.
- 1.3.4 The instrument will also incorporate “earned recognition” into the licensing system. Local authorities will be able to issue licences of 1, 2 or 3 years, with longer licences going to high performing, low risk businesses. This will result in lower licence fees and fewer inspections for high performing businesses, reducing the burden on them. It will also incentivise other businesses to perform at higher levels which will help to drive up animal welfare standards.
- 1.3.5 Local authorities will be able to issues licences at any point in the year, which will help to spread the workload across the year. The instrument will include new provisions, such as the prohibition on the sale of puppies below the age of 8 weeks and a requirement for a puppy to be shown with its mother by breeders

prior to sale. There will be a requirement for pet sellers to provide animal care information to new owners with every animal sold. Any purchase of a dog must now be completed in the presence of the purchaser at the premises where the dog has been kept for sale by the licence holder. The licensing threshold for dog breeders will be reduced to three or more litters per year to ensure that anyone breeding dogs commercially, including backyard breeders, requires a licence. This instrument will also explicitly highlight the need for online businesses to be licensed, removing the ambiguity in legislation to date.

- 1.3.6 Performing animals will be included in a light touch licensing scheme, in which the licence will be granted for 3 years following a satisfactory inspection. This system will include animals that are being exhibited, but not necessarily performing, to reflect the changes in this industry and the expansion of animal exhibition businesses.
- 1.3.7 Existing unexpired licences granted in accordance with the current animal licensing legislation shall continue in force for the remainder of its term.
- 1.3.8 Zoo licences and dangerous wild animal licences remain unchanged.
- 1.3.9 Existing licence holders have been contacted to advise them of the forthcoming changes and the new conditions relating to their animal activity.
- 1.3.10 A copy of the different Guidance documents for each type of licence is available on the TMBC website at <https://www.tmbc.gov.uk/services/business/licences-and-street-trading/animal-licensing/animal-welfare-licensing>

As the guidance documents are over 300 pages in length they are not attached to this report. I have included the procedural guidance notes for local authorities which is shown at **Annex 1** and a link to the individual guidance notes was emailed out prior to this meeting.

1.4 Transitional Provisions

Extract from The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 Procedural guidance notes for local authorities

- 1.4.1 Any unexpired licences granted under the Pet Animals Act 1951, Animal Boarding Establishments Act 1963, Riding Establishments Act 1964, Riding Establishments Act 1970 will continue in force for the rest of their terms under the relevant Act.
- 1.4.2 An unexpired licence granted under the Breeding of Dogs Act 1973 will continue in force for the rest of its term subject to the provisions of that Act, the Breeding of Dogs (Licensing Records) Regulations 1999, the Breeding and Sale of Dogs (Welfare) Act 1999 and the Breeding and Sale of Dogs (Welfare) Act 1999.
- 1.4.3 Any registration of a person under the Performing Animals (Regulation) Act 1925 will continue in force, for six months from the date on which these Regulations

come into force. These Regulations come into force on 1 October 2018 so this registration will expire on 1 April 2019.

1.5 Inspections

- 1.5.1 All inspectors must be suitably qualified to a Level 3 Certificate granted by a body, recognised and regulated by the Office of Qualifications and Examinations Regulation which oversees the training and assessment of persons in inspecting and licensing animal activities businesses, confirming the passing of an independent examination.
- 1.5.2 Tonbridge and Malling Borough Council (TMBC) currently use a Vet for Inspections of any new Animal Licence application. It is recommended that TMBC continue to use a Vet for Initial and renewal inspections depending on the animal activity being undertaken.
- 1.5.3 For the activity of hiring out horses, there is a requirement for an annual inspection by a listed veterinarian, regardless of the total length of the licence

1.6 Fee setting

- 1.6.1 The proposed fees will be available in a supplementary report at the committee meeting following final calculations taking into account the below criteria.

Extract from The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 Procedural guidance notes for local authorities

- 1.6.2 When setting the fees TMBC offices referenced the Fee setting guidelines
- 1.6.3 Regulation 13 of the Regulations set out what a local authority may charge fees for:
- 1.6.4 (a) The costs of consideration of an application, including any inspection relating to that consideration;
- 1.6.5 (b) The reasonable anticipated costs of consideration of a licence holder's compliance with the Regulations and the licence conditions to which a licence holder is subject. This includes the costs of any further inspections related to compliance;
- 1.6.6 (c) The reasonable anticipated costs of enforcement in relation to any licensable activity of an unlicensed operator; and
- 1.6.7 (d) The reasonable anticipated costs of the local authority compiling and submitting the data required by regulation 29 to the Secretary of State.

1.7 Determining the length of a licence and the star rating

- 1.7.1 All “Keeping or Training Animals for Exhibition” licences are issued for 3 years.
- 1.7.2 A star rating will be given to a premises depending on the Welfare Standards and Risk.
- 1.7.3 Businesses will be rated following an inspection that takes place prior to grant/renewal of the licence or a requested re-inspection
- 1.7.4 Where businesses have a licence for multiple activities within the scope of the regulations, the licence holder should receive only one rating, which must cover all the activities. Where they are meeting different standards for different activities
- 1.7.5 The star rating must be added to the licence and the licence should be displayed by the business.

Table 1 – The Scoring Matrix

Scoring Matrix		Welfare Standards		
		Minor Failings (existing business that are failing to meet minimum standards)	Minimum Standards (as laid down in the schedules and guidance)	Higher Standards (as laid down in the guidance)
Risk	Low Risk	1 Star 1yr licence Min 1 unannounced visit within 12 month period	3 Star 2yr licence Min 1 unannounced visit within 24 month period	5 Star 3yr licence Min 1 unannounced visit within 36 month period
	Higher Risk	1 Star 1yr licence Min 1 unannounced visit within 12 month period	2 Star 1yr licence Min 1 unannounced visit within 12 month period	4 Star 2yr licence Min 1 unannounced visit within 24 month period

- 1.7.6 Full details of the scoring matrix is shown within **Annex 1**

1.8 Legal Implications

- 1.8.1 See above

1.9 Financial and Value for Money Considerations

1.9.1 Current annual licensing fees vary depending on the type of licence. In addition applicants are also charged for veterinary inspections. Under the new scheme local authorities may continue to charge reasonable fees associated with the grant, renewal or variation of a licence.

1.10 Risk Assessment

1.10.1 The recommended fee levels will be calculated in order to ensure that the consideration and related inspection for a licence does not exceed reasonable costs.

1.11 Equality Impact Assessment

1.11.1 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.

1.12 Recommendations

1.12.1 The Committee is RECOMMENDED to:

- Agree the licence and Inspection fees as set out in the supplementary report presented at the committee meeting
- That TMBC continue to use a Vet for Initial and renewal inspections depending on the animal activity being undertaken

Background papers:

Statutory instrument (2018 No.486)
The Animal Welfare (Licensing of Activities Involving
Animals) (England) Regulations 2018

Regulation Guidance

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Department
for Environment
Food & Rural Affairs

**The Animal Welfare (Licensing of Activities
Involving Animals) (England) Regulations 2018**
Procedural guidance notes for local authorities
July 2018

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Introduction and intended audience

1. This guidance is for local authorities who need to license activities involving animals and the relevant establishments. It can also be used by those who currently have a licence or wish to apply for one.
2. Local authorities, existing licence holders and anyone planning to apply for a licence should also read The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018⁽¹⁾ (the “Regulations”) to understand their obligations and duties under the new Regulations and the licences granted under these Regulations.

Definitions used in this Guidance

3. Terms used in this guidance have the same meaning as in the Regulations, unless stated otherwise.
4. For ease of reference some of the key definitions used in this guidance are set out below:

A “licensable activity” means one of five activities involving animals: selling animals as pets, providing for or arranging for the provision of boarding for cats or dogs (includes boarding in kennels or catteries, home boarding for dogs and day care for dogs), hiring out horses, dog breeding and keeping or training animals for exhibition.

An “operator” means an individual who—

- (a) carries on, attempts to carry on or knowingly allows to be carried on a licensable activity, or
- (b) where a licence has been granted or renewed, is the licence holder;

The “local authority” means—

- (a) a district council,
- (b) a London borough council,
- (c) the Common Council of the City of London (in their capacity as a local authority),
- (d) the Council of the Isles of Scilly, or
- (e) a combined authority in England established under section 103 of the Local Democracy, Economic Development and Construction Act 2009.

A “listed veterinarian” means a veterinarian who for the time being is listed as being authorised to carry out an inspection on the list of veterinarians drawn up by the Royal College of Veterinary Surgeons.

Who and what to license

5. The Regulations apply to an operator of a licensable activity in England.
6. Local authorities must make sure that the person who carries on, attempts to carry on or knowingly allows a licensable activity to be carried on, the “operator”, either does not

(1) [The Animal Welfare \(Licensing of Activities Involving Animals\) \(England\) Regulations 2018](#)

need a licence due to not meeting the requirements in the Regulations, holds a licence in accordance with the Regulations or that appropriate enforcement action is taken on unlicensed activity.

7. The licence holder must be a named person who is not disqualified from holding a licence in accordance with the requirements of regulation 11 (Persons who may not apply for a licence).
8. Responsibility for ensuring that the correct licence has been obtained and is kept up to date with the relevant local authority or authorities falls to the licence holder or prospective licence holder.
9. Where businesses operate a franchise model each establishment should have its own licence and star rating.

How long licences last

10. For the activity of “Keeping or Training Animals for Exhibition”, all licences are for three years on the basis that these activities have hitherto been subject to a simple registration system. There is no risk assessment applied to such activities.
11. For all other activities, if a **new applicant** (someone who has no compliance history with a local authority or UKAS) is successful, they will automatically be considered as high risk due to a lack of history.
12. Such operators will have the length of their licence determined by their risk rating (automatically high risk) and whether the operator is already meeting the specified higher standards of animal welfare rather than the minimum required by the licence conditions.
13. If an **existing operator** is applying for the renewal of a licence, then the length of time the licence is granted for will be determined by their risk rating and the licence length can be up to three years. Those with longer licences will receive fewer inspections because inspections tend to be on renewal, and therefore they will pay less for inspection fees as a result.
14. The risk model guidance set out in paragraph 61 onwards must be used in determining the length of licence to award.

Before you grant a new animal activity licence

15. Once a local authority receives an application for the grant or renewal of a licence it must do all of the following before granting or renewing a licence:
 - (a) You must consider whether the conduct displayed by the applicant indicates that they are a fit and proper person to carry out the licensable activity and meet their licence conditions.
 - (b) Inspect the site of the licensable activity and assess if it's likely to meet the licence conditions. You'll need to have a suitably qualified inspector present (as well as a veterinarian for the initial inspection of a dog breeding establishment, or a listed veterinarian for inspections of horse riding establishments). The inspector must prepare a report, in accordance with the requirements of regulation 10, to be submitted to the local authority following their inspection.

- (c) The inspector's report will contain information about the operator, any relevant premises, any relevant records, the condition of any animals and any other relevant matter and state whether or not the inspector considers that the licence conditions will be met.
- (d) Ensure that the appropriate fees have been paid, these can include fees for the consideration of the application, the reasonable anticipated costs of consideration of a licence holder's compliance with these Regulations, the reasonable anticipated costs of enforcement in relation to any licensable activity of an unlicensed operator and any fees in relation to the provision of information to the secretary of state.

Suitably qualified inspectors

16. All inspectors must be suitably qualified. This is defined as:

- (a) Any person holding a Level 3 certificate granted by a body, recognised and regulated by the Office of Qualifications and Examinations Regulation which oversees the training and assessment of persons in inspecting and licensing animal activities businesses, confirming the passing of an independent examination. A person is only considered to be qualified to inspect a particular type of activity if their certificate applies to that activity. Or;
- (b) Any person holding a formal veterinary qualification, as recognised by the Royal College of Veterinary Surgeons ("RCVS"), together with a relevant RCVS continuing professional development record;
- (c) Until October 2021, any person that can show evidence of at least one year of experience in licensing and inspecting animal activities businesses.

Deciding on a licence application

17. You must consider the inspectors' report and any comments or conduct made by the applicant when deciding whether or not to approve a new licence application.

18. You must refuse to grant a licence if you:

- (a) Think the applicant is not capable of meeting their licence conditions.
- (b) Think that granting a licence might negatively affect the welfare, health or safety of the animals involved in the activity.
- (c) You can refuse to grant a licence if the accommodation, staffing or management are inadequate for the animals' well-being or for the activity or establishment to be run properly. The relevant guidance documents for the activity will explain in detail the requirements and conditions that must be met so you should have regard to these documents.
- (d) You can also refuse to grant a licence if the applicant has been disqualified from holding a licence as per Schedule 8 of the Regulations.

Granting a licence

19. The application form must be completed by the applicant for each of the licensable activities being applied for and sent to the relevant local authority along with payment

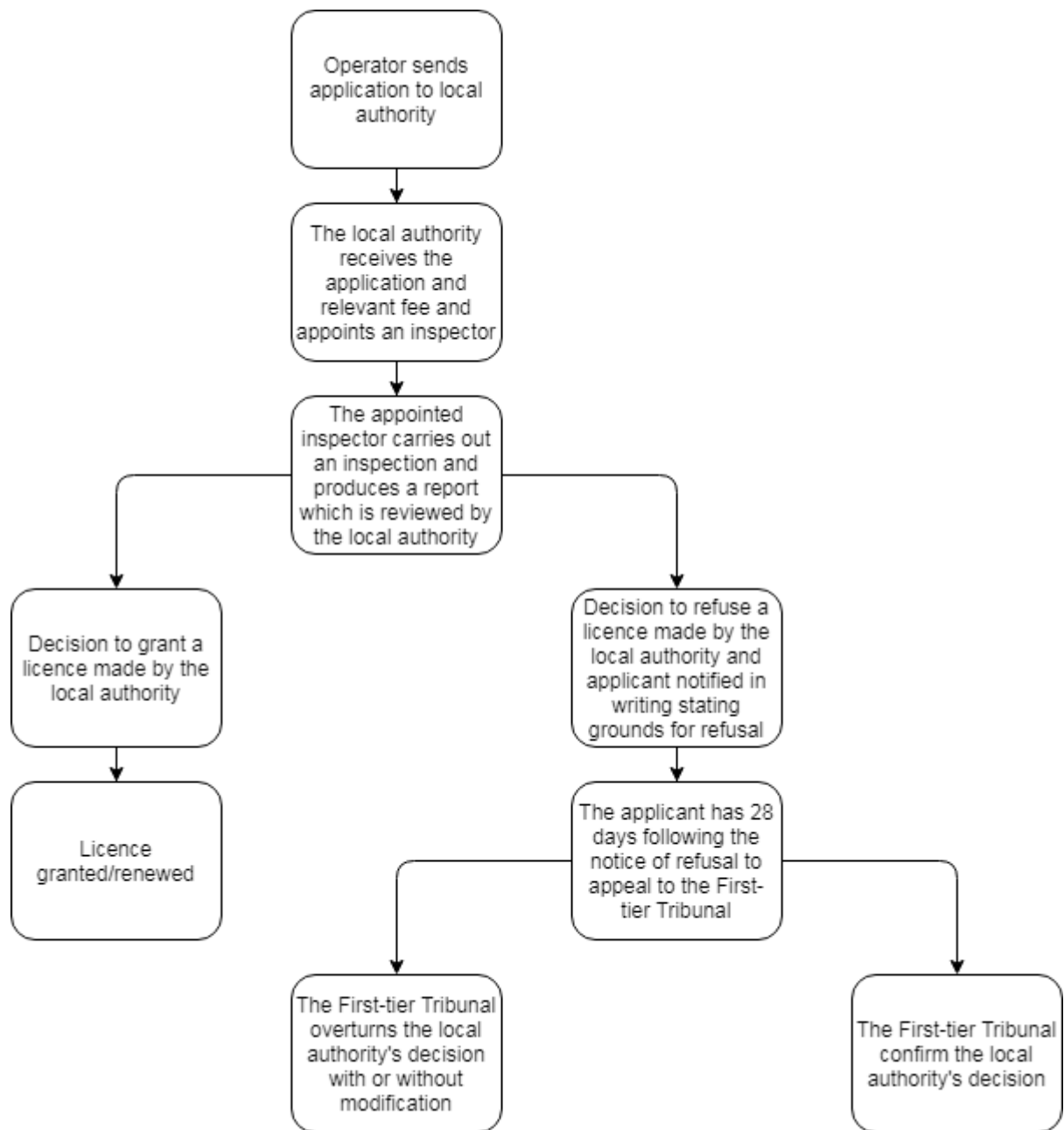
for the application fee. The relevant local authority will be the one in which the premises at which the majority of the licensable activities take place.

20. You should aim to issue a decision on an application within 10 weeks of receiving it. It is possible that the process may take longer, for example if further information is required from the applicant or if it proves difficult to make the arrangements for the inspection.

Renewing a licence

21. Local authorities should advise each licence holder in writing 3 months before their licence expires that they will need to renew it.
22. The licence holder must apply for a renewed licence at least 10 weeks before their current licence expires if they wish to continue to operate the licensable activity without a break.
23. Local authorities must carry out an inspection of the premises before renewing the licence. The form of the inspection will depend on the licensable activity in question.
24. Consider the inspection report (and any response from the applicant) when deciding whether to renew the licence or not.

Figure 1 Application flowchart



Suspension, variation or revocation of a licence

25. A local authority may at any time vary a licence:
- (a) On the application in writing of the licence holder, or
 - (b) On your own initiative, with the consent in writing of the licence holder.
 - (c) In addition to the above a local authority may suspend, vary or revoke a licence without the consent of the licence holder if:
 - i. The licence conditions are not being complied with,
 - ii. There has been a breach of the Regulations,
 - iii. Information supplied by the licence holder is false or misleading, or
 - iv. It is necessary to protect the welfare of an animal.
26. Such a suspension, variation or revocation of a licence will normally take effect 7 working days after the decision has been issued to the licence holder unless the reason is to protect the welfare of an animal in which case you may stipulate that the decision has immediate effect.
27. The decision to vary or suspend the licence must be notified to the licence holder in writing, explain the reasoning for the decision, and provide information regarding when the suspension, variation or revocation comes into effect and the rights of the licence holder, as well as any specific changes that you deem necessary in order to remedy the situation.
28. The decision to vary or suspend a licence should be dependent on the severity of the situation, if an operator fails to meet administrative conditions or provide information when requested then this could potentially lead to the suspension of a licence if it happens repeatedly. Revocation of a licence should occur in an instance where poor welfare conditions are discovered or it would otherwise benefit the welfare of the animals involved to be removed from the activity. Variations can occur if adjustments need to be made, whether that is to the licence itself or to the premises/animals referred to in the licence.
29. Under paragraph 16(2) of the Regulations if it is necessary to protect the welfare of an animal the local authority may specify in the notice of suspension, variation or revocation that it takes immediate effect.
30. A local authority notice must be delivered in one of three ways, in person; by leaving it at or sending it by post to the person's current or last known postal address; or by emailing it to the person's current or last known email address.
31. Following the issuing of the notice the licence holder will then have 7 working days to make written representation. Upon receipt of this you must decide whether to continue with the suspension, variation or revocation of the licence or cancel the decision to make changes to the licence. If the licence has been altered to protect the welfare of an animal then you must indicate that this is the reason and whether the change is still in effect.
32. The business will not be able to trade once the suspension of a licence has come into effect and cannot do so until the decision is overturned by either the local authority

upon being satisfied that licence conditions are being met or by the First-tier Tribunal who may decide the local authority's decision was incorrect.

33. If a licence is suspended for a significant period of time then the local authority should ensure that the animals are checked on regularly to ensure that the welfare of the animals is maintained.
34. As with applications the licence holder may appeal to a First-tier Tribunal if they do not agree with the decision made by the local authority. This must be done within 28 days of the decision.
35. Note that if representation is not responded to within 7 working days of receipt then the initial decision the local authority made is deemed to be overturned, this is also the case if a licence which is initially suspended has no further action taken on it within 28 days.

Figure 2: Suspension or variation of a licence

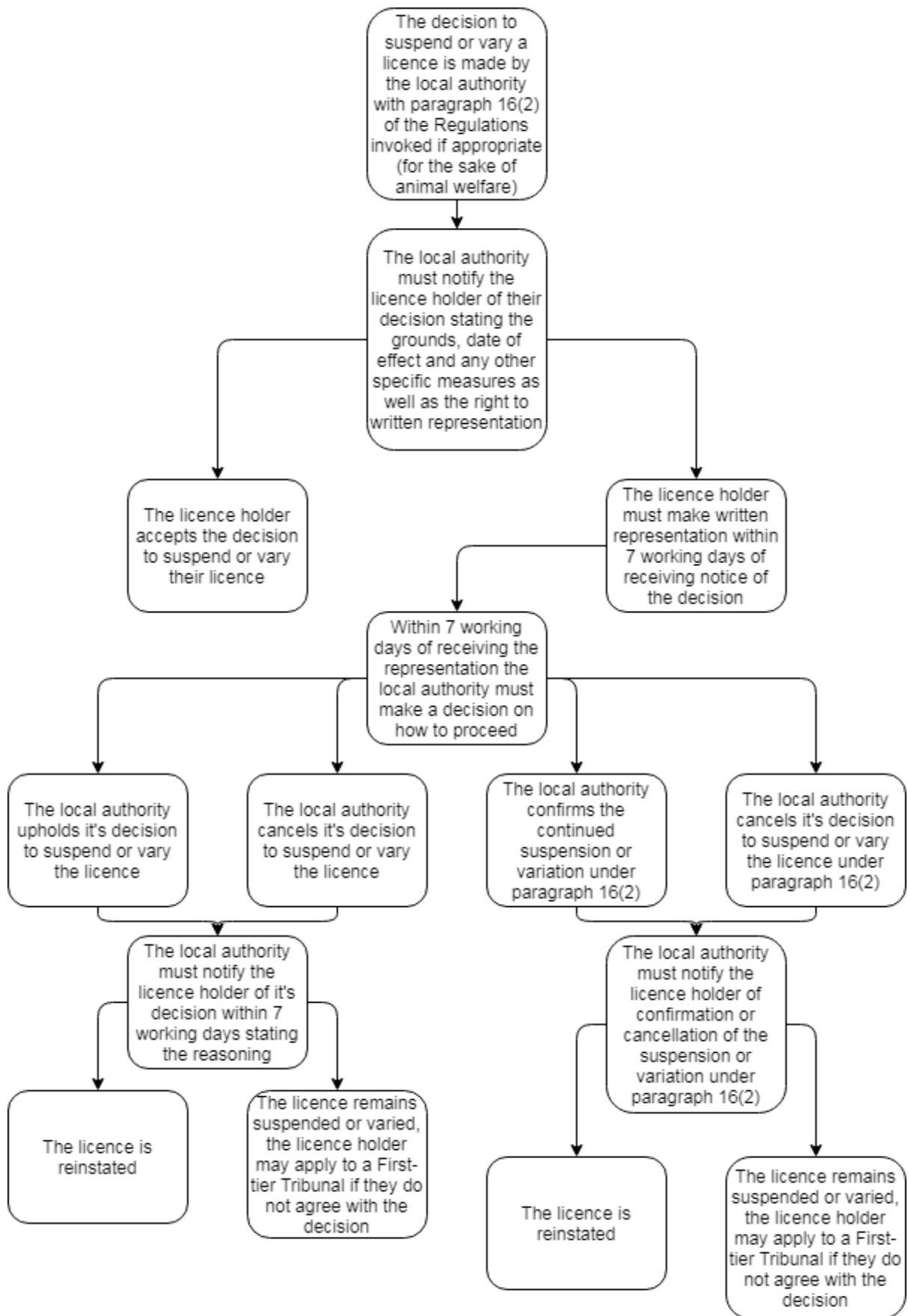
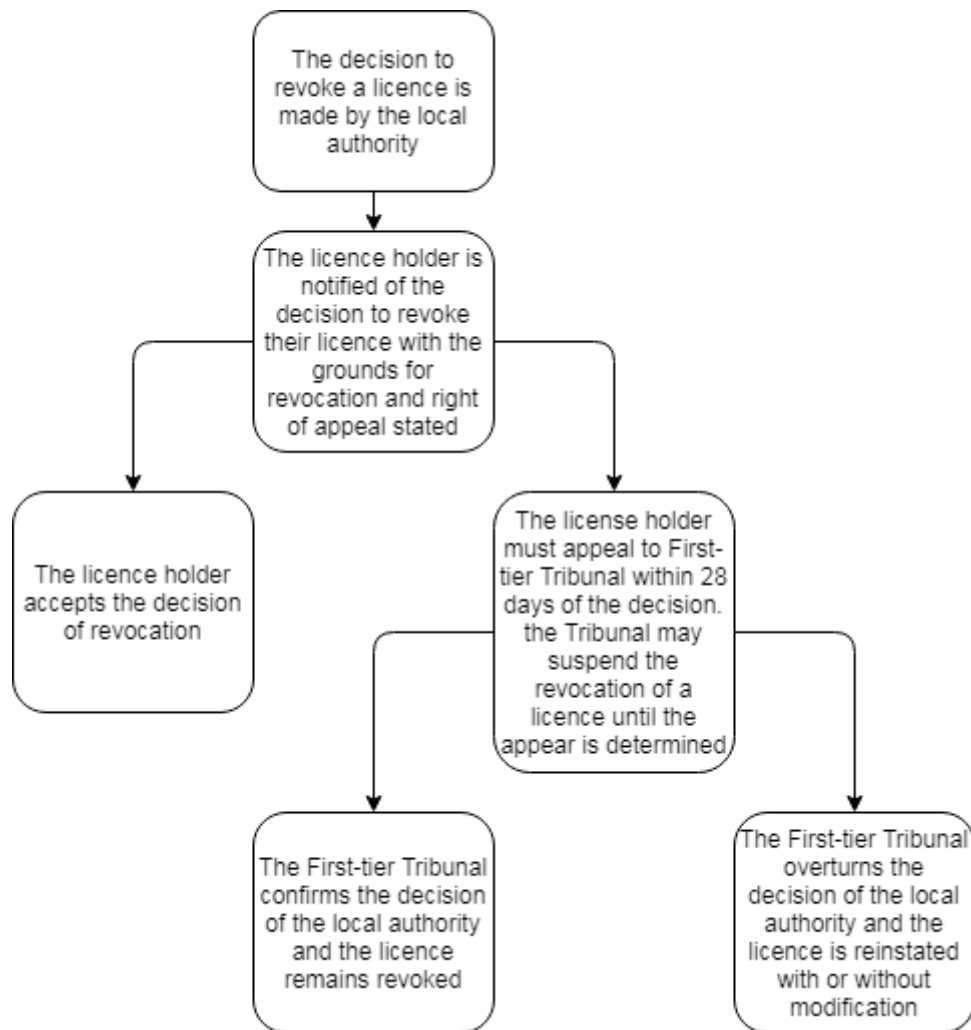


Figure 1 - Revocation of a licence



Provision of information to the Secretary of State

36. Each local authority must provide the following information to the Secretary of State in writing:
- (a) the number of licences in force for each licensable activity in its area on each reference date (1st April each year), and
 - (b) the average level of fees it has charged for licences it has granted or renewed for each licensable activity in each reference period.
37. These must be provided in an electronic form no later than 31st May each year from 2019 onwards.
38. The reference period means the period beginning with 1st October 2018 and ending with 31st March 2019, the year beginning with 1st April 2019 and each subsequent year beginning with an anniversary of 1st April 2019.
39. In addition to the information above which must be provided each year Defra may also contact you to request further information such as the average star rating given out for each establishment type or other pieces of information which could be useful for informing policy or the progress on implementation, it is not a requirement of the Regulations to provide this information however.

Inspections during the term of a licence

40. There will be cases where inspections must be carried out during the term of a licence.
41. For the activity of hiring out horses, there is a requirement for an annual inspection by a listed veterinarian, regardless of the total length of the licence. The local authority must appoint a listed veterinarian to inspect the premises on which the activity is being carried on before the end of the first year after the licence is granted and then each subsequent year.
42. Unannounced inspections can also be carried out and should be used in the case of complaints or other information that suggests licence conditions are not being complied with or that the welfare of the animals involved in a licensed activity is at risk.
43. During the course of an inspection the inspector may choose to take samples for laboratory testing from the animals on the premises occupied by an operator. The operator must comply with any reasonable request of an inspector to facilitate the identification, examination and sampling of an animal including ensuring that suitable restraints are provided if requested.

Death of a licence holder

44. If a licence holder dies, the procedure in regulation 12 of the Regulations applies. It allows the personal representative of the deceased to take on the licence provided that they inform the local authority within twenty-eight days of the death that they are now the operators of the licensable activity. The licence will then remain in place for three months from the death of the former holder or for the rest of the time it was due to

remain in force if that time period is shorter. The new licence holder should then apply for a new licence one month before the expiry of this new period.

45. Additionally a local authority can extend the three month period by up to another three months if requested by the representative and if they believe this time is needed to wind up the estate of the former licence holder.
46. If the personal representative does not notify the local authority within 28 days of the death of the licence holder the licence will cease to have effect after those 28 days.

Powers of entry

47. An inspector may not enter any part of premises which is used as a private dwelling unless 24 hours' notice of the intended entry is given to the occupier, parts of the premises which are not a private dwelling may be entered by an inspector if the premises is specified in a licence as premises on which the carrying on of an activity is authorised or is a premises on which he reasonably believes an activity to which a licence relates is being carried on.
48. A justice of the peace can issue a warrant authorising an inspector or a constable to enter a premises on the request of an inspector or constable using reasonable force if necessary in order to search for evidence of the commission of a relevant offence.
49. The justice will only issue a warrant if there are reasonable grounds for believing that a relevant offence has been committed on the premises, or that evidence of the commission of a relevant offence is to be found on the premises, and that section 52 of the Animal Welfare Act 2006 is satisfied in relation to the premises.
50. All other considerations from the Animal Welfare Act 2006 also apply.

Offences

51. It is an offence to breach any licence condition. It is also an offence not to comply with an inspector's request in the process of taking a sample from an animal. Samples should be as non-invasive as possible however inspectors may deem more invasive samples necessary if there are concerns over the welfare of the animals, the provision for sampling is primarily aimed at veterinarians carrying out inspections and it is not expected that samples be taken by those without the training to properly and safely do so.
52. It is also an offence to obstruct an inspector who has been appointed by a local authority to enforce the Regulations. Committing either of these offences could result in an unlimited fine.
53. Anyone who carries on any of the licensable activities without a licence is liable to imprisonment for a term of up to six months, a fine or both, section 30 of the Animal Welfare Act 2006 allows for local authorities to prosecute for any offences under that Act.

Post-conviction powers

54. The post-conviction power from section 34 of the Animal Welfare Act 2006 is in place whereby a person convicted of an offence under the Act is disqualified from owning, keeping, participating in the keeping of animals and from being party to an

arrangement under which they can control or influence the way an animal is kept, they are also may not transport or deal in animals. Breaching these disqualifications is an offence.

55. The post-conviction power from section 42 of the Animal Welfare Act is also in place whereby a court can cancel a currently existing licence and disqualify a person from owning a licence for any period it sees fit if that person is convicted of an offence under the Act.

Transitional provisions

56. Any unexpired licences granted under the Pet Animals Act 1951, Animal Boarding Establishments Act 1963, Riding Establishments Act 1964, Riding Establishments Act 1970 will continue in force for the rest of their terms under the relevant Act.

57. An unexpired licence granted under the Breeding of Dogs Act 1973 will continue in force for the rest of its term subject to the provisions of that Act, the Breeding of Dogs (Licensing Records) Regulations 1999, the Breeding and Sale of Dogs (Welfare) Act 1999 and the Breeding and Sale of Dogs (Welfare) Act 1999.

58. Any registration of a person under the Performing Animals (Regulation) Act 1925 will continue in force, for six months from the date on which these Regulations come into force. These Regulations come into force on 1 October 2018 so this registration will expire on 1 April 2019.

Fee setting

59. When setting fees, local authorities should have regard to Open for business: LGA guidance on locally set licence fees², which sets out the steps that must be taken to set fair and reasonable fees, and explains the EU Services Directive upon which the LGA guidance is based. Local authorities should also have regard to the BEIS Guidance for Business on the Provision of Services Regulations. As with other areas of licensing, regard should also be had to the principles in the Regulators' Code. "Reasonable anticipated costs" will be fact specific and dependent on the local authority in question. The "Open for business: LGA guidance on locally set licence fees" guidance includes information on what could be considered reasonable.

Activities covered by the licensing fees

60. Regulation 13 of the Regulations set out what a local authority may charge fees for:

- (a) The costs of consideration of an application, including any inspection relating to that consideration;
- (b) The reasonable anticipated costs of consideration of a licence holder's compliance with the Regulations and the licence conditions to which a licence holder is subject. This includes the costs of any further inspections related to compliance;
- (c) The reasonable anticipated costs of enforcement in relation to any licensable activity of an unlicensed operator; and

² <https://www.local.gov.uk/open-business-lga-guidance-locally-set-licence-fees>

(d) The reasonable anticipated costs of the local authority compiling and submitting the data required by regulation 29 to the Secretary of State.

Determining the length of a licence and the star rating of a business:

Assessing risk & standards

61. This guidance describes the risk-based system that must be used when issuing animal activities licences under the Regulations with the exception of “Keeping or Training Animals for Exhibition” where all licences are issued for 3 years. This system should be used to determine both the length of the licence and the star rating to award. Local authorities in England are expected to follow it in full.
62. The purpose is to ensure consistency in implementation and operation of the licensing system by local authorities, and to ensure that consumers can be confident that the star rating applied to businesses is an accurate reflection of both their risk level and the animal welfare standards that they adopt.

Animals activity star rating system

63. The scoring matrix for a premises is displayed in Table 1.

Table 1 – The Scoring Matrix

Scoring Matrix		Welfare Standards		
		Minor Failings (existing business that are failing to meet minimum standards)	Minimum Standards (as laid down in the schedules and guidance)	Higher Standards (as laid down in the guidance)
Risk	Low Risk	1 Star 1yr licence Min 1 unannounced visit within 12 month period	3 Star 2yr licence Min 1 unannounced visit within 24 month period	5 Star 3yr licence Min 1 unannounced visit within 36 month period
	Higher Risk	1 Star 1yr licence Min 1 unannounced visit within 12 month period	2 Star 1yr licence Min 1 unannounced visit within 12 month period	4 Star 2yr licence Min 1 unannounced visit within 24 month period

64. The model takes into account both the animal welfare standards adopted by a business as well as their level of risk (based on elements such as past compliance). This model should be used every time a licence is granted or renewed.
65. Businesses must be given a star rating, ranging from 1 star to 5 stars, based on this model, and the results of their inspection. This star rating must be listed on the licence by the issuing local authority officer. The system incorporates safeguards to ensure fairness to businesses. This includes an appeal procedure and a mechanism for requesting a re-inspection for the purposes of re-rating when improvements have been made.
66. In order to use this model to calculate the length of the licence and associated star rating, it is necessary to address the following questions, based on the inspection and on records of past compliance:
- (a) Does the business meet the minimum standards?
 - (b) Does the business meet the higher standards?
 - (c) Is the business low or higher risk?

Does the business meet the minimum standards?

67. To obtain a licence for a single activity i.e. dog breeding, the applicant must meet the minimum standards set out in the specific Schedules to the Regulations (i.e. for Dog Breeding, Schedule 6) in addition to those in the General Schedule (Schedule 2). All businesses should meet the minimum standards but see paragraph 69 below for minor failings.
68. Additional information on how to meet these standards for each activity are outlined in the relevant specific guidance documents. During an inspection, the inspector should assess whether or not the business is meeting each of these minimum standards. If this is the case, they will qualify for a minimum of a two star rating (but subject to paragraph 69 below for minor failings).

Minor failings

69. If an existing business has a number of minor failings with regards to the minimum standards laid down in the schedules and the guidance, they should receive a risk rating score of 1 star. These minor failings should be predominantly administrative or if they are in relation to standards, they must not compromise the welfare of the animals. If animal welfare is being compromised, a licence should not be granted/renewed or, if already in place, should be suspended or revoked.

Does the business meet the higher standards?

70. For each activity, a number of higher standards have been agreed. Meeting the higher standards is optional but is the only way to gain a higher star rating. The higher standards are classified in to two types: **required** and **optional** and are outlined in the relevant guidance documents for the activity in question. To distinguish required standards from optional ones they have each been given a specific colour which is used in each guidance document. **Higher standards that appear in blue text are required**, whereas **those that appear in red text are optional**. To qualify as meeting the higher standards, the business needs to achieve all of the required higher standards as well as a minimum of 50% of the optional higher standards. During an

inspection, the inspector should assess whether or not the business meets the required number of higher standards.

71. Where a scheme utilising UKAS accredited certification is operational, it will be operated against either the minimum or higher standards as set out in the certification scheme criteria and as agreed with UKAS as part of the accreditation process. If a business is certified by a UKAS-accredited certification body to the higher standards, they should automatically be considered as meeting these standards, unless there is significant evidence of poor animal welfare or non-compliance is identified during the inspection.

Is the business low or high risk?

72. Table 2 Risk Scoring Table below should be used to determine if a business that is not certified by a UKAS accredited body is low or higher risk.
73. The risk assessment is not meant to reconsider specific issues taken into account in assessment of compliance with the minimum or higher standards. It does, however, require an assessment on the likelihood of satisfactory compliance being maintained in the future.
74. In considering risk, “management” covers the system as a whole. For a multi-site business, the company wide management system and procedures are a key element of this but local site / premises management is also important as that will influence how these systems and procedures are applied
75. Assessments of the written procedures should be based on the principle of proportionality, i.e. commensurate with the nature and size of the business. For small businesses which present lower risks, it may be sufficient that the business has in place good welfare practices and understands and applies them, i.e. it meets its prerequisites.

Certification by a UKAS-accredited body

76. Any business that is certified by a UKAS-accredited body and has three or more years of compliance history with this body should be considered low risk and receive the higher star ratings (unless there is significant evidence of poor animal welfare or non-compliance) as the welfare and risk management systems have been reviewed by an accredited third party.
77. New businesses that do not have three years of compliance history with a local authority or a UKAS-accredited body should automatically be considered high risk as they have no operational history.
78. If concerns are raised at the inspection indicating that the certified business may not be operating to the high standards or controlling risks appropriately, the inspector will address these in line with the guidance on procedural issues and the risk rating score adjusted accordingly. In addition these concerns should be reported directly to the UKAS-accredited body so that they can also intervene and / or suspend or withdraw the business’s certification.
79. Where businesses are certified by a UKAS-accredited body, that body can inform the relevant local authority with a list of the certified businesses in their area. Where notified, and where covered by confidentiality waivers, the local authority may request the UKAS-accredited body’s inspection reports and can use that information to inform

its own inspection including using the UKAS-accredited body's assessment of compliance.

80. For existing licensed businesses that are not certified by a UKAS-accredited body that are applying for a licence renewal, the following risk management table (Table 2) should be used to generate a risk score for the business. Each element should be reviewed and a score given (1 for low risk and 2 for high risk). An overall score can then be arrived at.
81. Where there is any uncertainty, if a business cannot provide satisfactory evidence that it is low risk in a given category, it should be scored as high risk.
82. A score of 17 or less is required for the business to be classed as low risk and a score of 18 or more means that the business will be classed as higher risk.

Table 2 – Risk Scoring Table

	Low (Score1)	High (Score 2)	Score
Compliance History - inspections	Documented evidence from formal inspections over the previous three years reveal consistent and high levels of compliance in terms of welfare standards and risk management.	Formal inspections over the previous three years reveal some degree of non-compliance that has required the intervention of the inspector for the business to ultimately recognise and address these. More serious breaches would attract other enforcement action: suspension, revocation, prosecution.	
Compliance History – follow up action	No evidence of follow-up action by local authority in the last year apart from providing the licence holder with a copy of the inspection report, or sending them a letter identifying some minor, administrative areas for improvement (e.g. minor record keeping issues).	Follow up action by the local authority, such as sending them letters, triggered by low level non-compliance that is not addressed, or the business does not recognise the significance of the need to address the non-compliance.	
Compliance History – re-inspection	No re-inspection necessary (apart from standard unannounced inspection) before next planned licence inspection / renewal	Re-inspection necessary to ensure compliance.	

	Low (Score1)	High (Score 2)	Score
Complaint History – complaints to the LA	No complaints received direct to the LA that are justified in relation to welfare standards or procedural issues during the previous three years.	Low level substantiated complaints identifying concerns over the business / licence holder have been received within the previous three years.	
Complaint History – complaints to the business	Licence holder records and documents any feedback received directly, in order to demonstrate compliance and willingness to address issues, and can provide evidence of this.	Licence holder does not record feedback received directly or show willingness to address any issues identified.	
Appreciation of welfare standards - enrichment	Sound understanding by the licence holder of relevant environmental enrichment applicable to the activity (guided by expert advice), with demonstrated implementation.	Little environmental enrichment present, inconsistently used and its importance not understood or really valued.	
Appreciation of hazards / risks	Licence holder clearly understands their role and responsibilities under the legislation. Hazards to both staff and animals clearly understood, properly controlled and reviewed with supporting evidence where applicable.	Licence holder not fully engaged with their role/responsibilities, lacks time to fulfil role, no system for review and reassessment of hazards to both animals and staff.	
Appreciation of hazards / risks - maintenance	A suitably planned maintenance, repair and replacement program for infrastructure and equipment is in place.	No planned maintenance program. Building, installations and equipment allowed to deteriorate before action is implemented.	
Appreciation of hazards / risks – knowledge and experience	Staff have specialist and appropriate knowledge of the taxa / species that are kept. There is sufficient staff, time and resource for daily, adequate routine monitoring, evidenced through records and staff rotas.	Key staff lack experience / knowledge of the species. Staff appear overburdened and / or unsupported by management, corners being cut.	

	Low (Score1)	High (Score 2)	Score
Appreciation of hazards / risks – dealing with issues	Clear defined roles / responsibilities of staff, with clear processes for reporting and addressing any identified issues.	Lack of any process, or ownership and responsibility within the business to identify and deal with issues.	
Welfare management procedures – written procedures	Written procedures / policies clearly documented, implemented and reviewed appropriately.	Limited written procedures / policies. No overall strategic control or direction.	
Welfare management procedures – supervision of staff	Appropriate supervision of staff evident where applicable.	Inadequate supervision of staff evident on inspection or from the training records.	
Welfare management procedures – record keeping	All required records maintained and made available.	Poor standard of record keeping, records out of date or appear to be being manufactured – relevance of records not appreciated.	
Welfare management procedures - training	Planned training programme for staff to review and assess competency, with documented training records.	Little or no evidence of relevant training or system for review and reassessment.	
Total Score of 17 or less = Low risk Score of 18 or more = Higher risk.			
Risk Rating			

Frequently asked questions

The process of providing a risk rating

Q1. When should businesses be rated?

83. Businesses should be rated following an inspection that takes place prior to grant/renewal of the licence or a requested re-inspection. Businesses may also be re-rated following an unannounced or additional inspection (e.g. following a complaint), if major issues are highlighted that require follow up action.

Q2. When should new businesses be rated?

84. New businesses should be rated following their initial inspection.

Q3. Where businesses have a licence for multiple activities within the scope of the regulations, should each activity be rated separately?

85. The licence holder should receive only one rating, which must cover all the activities. Where they are meeting different standards for different activities (e.g. meeting the higher standards for dog breeding, but the minimum standards for dog boarding), the overall score should reflect the lower of the two.

Q4. What information should the local authority provide with the star rating following the inspection at which a rating was determined?

86. The following information should be provided in writing:

- (a) The star rating itself.
- (b) Details of why the business was rated as it was. This should include a list of the higher standards that the business is currently failing to meet, or a list of the minimum standards that the business is failing to meet if it is considered to be in the minor failing category. This should also include a copy of the risk management table showing the scores under each point. Details recorded must be sufficient to support the score given for each element to facilitate internal monitoring or enable review where an appeal is made.
- (c) Details of the appeals process and the deadline by which an appeal must be made.

The appeals process

87. To ensure fairness to businesses, local authorities must have an appeal procedure in place for businesses to dispute the star rating given in respect of their business. The appeal procedure is relevant where the business wishes to dispute the star rating given as not reflecting the animal welfare standards and risk level of their business at the time of the inspection. This should not be used if the business has made improvements to their business and wishes to be reassessed – in this case, they should apply for re-inspection

Q5. How can a business appeal their star rating?

88. If a business wishes to appeal the star rating given by the 'inspecting officer' (i.e. the officer undertaking the inspection) on behalf of the local authority, the appeal should be made in writing (including by email) to the local authority.

89. A business disputing a rating should be encouraged to discuss this informally first with the 'inspecting officer' so that there is an opportunity to help explain to the business

how the rating was worked out, as this may help resolve the matter without the business having to lodge an appeal. Any such discussions do not form part of the formal appeal process and do not change the deadline within which an appeal must be lodged. This should be made clear to the business so that they may lodge an appeal, and may subsequently withdraw it, if they wish.

90. Businesses have 21 days (including weekends and bank holidays) following the issue of their licence in which to appeal the star rating.

Q6. How will a local authority determine the outcome of the appeal?

91. The appeal should be determined either by the head of the department that issued the licence within the local authority, or by a designated deputy, or by the equivalent in another authority. No officer involved in the production of the rating, or in the inspection on which the rating is based should consider the appeal.
92. The local authority then has 21 days (including weekends and bank holidays) from the date they receive the appeal to consider the appeal, within which time they must issue a decision to the business.
93. A local authority will determine the outcome of an appeal by considering the paperwork associated with the inspection and the past record of the business. In some circumstances, a further visit to the establishment may be required. The appeal process should be transparent. The costs of any additional inspections related to the appeal will be borne by the applicant unless it results in a higher rating being awarded. This will depend on the nature of the dispute and whether a decision can or cannot be made on the basis of the paperwork.

Q7. What if the business disagrees with the outcome of the appeal?

94. If the business disagrees with the outcome of the appeal, they can challenge the local authority's decision by means of judicial review. The business also has recourse to the local authority complaints procedure (including taking the matter to the Local Government Ombudsman where appropriate) if they consider that a council service has not been properly delivered

Requests for re-inspections for re-rating purposes

95. To ensure fairness to businesses, local authorities must have a procedure in place for undertaking re-inspections at the request of the business for re-assessing their star rating.
96. The re-inspection mechanism applies in cases where businesses with ratings of '1' to '4' have accepted their rating and have subsequently made the necessary improvements to address non-compliances identified during the local authority's previous inspection. Businesses should be aware that re-inspection for re-rating purposes could lead to a lower rating being awarded rather than an increase in rating.

Q7. Who pays for a re-inspection visit?

97. Re-inspection falls under full cost recovery, and so the business will be required to pay for the costs of the inspection.

Q8. When is the inspection carried out?

98. The re-inspection should be carried out within three months of receipt of the request. Where an inspection does not occur within the three months, the business can raise the issue with the head of the licensing department within the local authority. If the

matter cannot be resolved, the business has recourse to the local authority complaints procedure.

Q9. How many re-inspections can a business request?

99. There is no limit to the number of re-inspection visits a business can request, however, there will be a fee for each visit charged at full cost recovery.

Q10. How should a business request a re-inspection?

100. The request should be made in writing (including by email) and should outline the case for a re-inspection, i.e. it should indicate the actions that have been taken by the business to improve the level of compliance or welfare since the inspection and, where appropriate, should include supporting evidence. The supporting case should refer to those actions that the local authority informed the business would need to be made in order to achieve a higher rating.

Q11. Must the local authority accede to all requests for re-inspections?

101. No. If the case made by the business is not substantiated or insufficient evidence is provided, the local authority can refuse to undertake a re-inspection on that basis. In doing so, the local authority must explain why the request is being refused at this stage and should re-emphasise the priority actions that must be taken in order to improve the rating and indicate what evidence will be required for agreement to a re-inspection to be made on further request. If the business disagrees with the local authority's decision to refuse a request for a re-inspection, they can raise the issue with the head of the licensing department within the local authority. If the matter cannot be resolved, the business has recourse to the local authority complaints procedure.

Q12. Where there is a supporting case, must a re-inspection be made or can a new rating be given on the basis of documentary evidence?

102. A re-inspection must be made. A new rating must not be given on the basis of documentary evidence only.

Q13. Where a re-inspection is to be undertaken, should this be unannounced?

103. This will depend on the reason for the re-inspection. This can be by appointment, unless an unannounced visit is necessary to ensure that compliance is checked properly (e.g. if the non-compliance was related to cleanliness standards).

Q14. If standards have not improved or have deteriorated at the time of the re-inspection, should a lower rating be given?

104. At the time of the re-inspection, the local authority officer should not only check that the required improvements have been made, but should also assess the ongoing standards. This means that the rating could go up, down or remain the same, change in licence length should be handled using the varying process described in paragraphs 25-35.

Q15. Should the ratings be published?

105. The star rating must be added to the licence and the licence should be displayed by the business. In addition, we encourage local authorities to maintain a list of licensed businesses and their associated ratings on their websites.



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animal.welfare@defra.gsi.gov.uk

TONBRIDGE & MALLING BOROUGH COUNCIL

LICENSING & APPEALS COMMITTEE

02 October 2018

Report of the Director of Central Service and Monitoring Officer

Part 1- Public

Matters for Information

1 REMOVAL OF PROBATIONARY LICENCES FROM HACKNEY CARRIAGE AND PRIVATE HIRE POLICY FOR CONSULTATION

1.1 Executive Overview

- 1.1.1 Hackney carriage and private hire vehicles have an important role to play in an integrated transport system. They are able to provide services in situations where public transport is either not available, outside “normal” hours of operation such as in the evenings or at weekends or for those with mobility difficulties
- 1.1.2 The current Hackney Carriage and Private Hire Policy was approved by Full Council on the 10 April 2018 for the period of three years, running from 2018 – 2023.
- 1.1.3 On the 21 May 2018 the Licensing and Appeals Committee made a decision to discontinue of the Probationary Private Hire Licence, after a six week consultation.
- 1.1.4 The Hackney Carriage and Private Hire Policy shown at **Annex 1**, has all references to Probationary Private Hire taken out.
- 1.1.5 It is proposed this new policy goes out for consultation for six weeks from the 5 October 2018 until 16 November 2018.

1.2 Background

- 1.2.1 Public safety is of paramount consideration when processing prospective candidates by ensuring only fit and proper persons are licensed to (drive members of the public safely, professionally and courteously to and from their required destinations.
- 1.2.2 Hackney carriages and private hire licensed drivers undertake great numbers of school contracts with Kent County Council transporting young children, people with special needs and vulnerable adults.

1.3 Proposed changes

- Removal of all references to Probationary Private Hire Licences.
- Updated delegations - 20.1.1
- Clarification of Body and Vehicle Colour 7.19
- Changes in knowledge test processes 11.1
- The offence of “Battery” added to 10.4.4

1.4 Consultation

1.4.1 It is proposed this new policy goes out for consultation for six weeks from the 5 October 2018 until 16 November 2018.

1.4.2 Subject to the Licensing & Appeals Committee agreeing the format and content of the taxi policy it will be recommended to Full Council for adoption.

1.4.3 The draft policy will be sent out to:

- All current licensed hackney carriage drivers, private hire drivers; dual drivers,
- hackney carriage and private hire vehicle proprietors and private hire operators;
- All Borough and Parish Councillors
- Community Safety Unit
- Public Libraries
- Access Group
- List of interested parties for licensing polices

1.4.4 The policy will be available for download on the Council’s web site as well as copies being available at the Council’s main offices.

1.4.5 A copy of the Consultation feedback form is shown at **Annex 2**

1.4.6 The following process steps enabled development of this policy

Draft consultation agreed at the Licensing and Appeals Committee	2 October 2018
Public Consultation	5 October 2018 until 16 November 2018

Licensing and Appeals Committee agrees the policy and recommends to Full Council for adoption	27 November 2018
Full Council adopt policy	19 February 2019
New Policy comes into force	1 March 2019

1.5 Legal Implications

- 1.5.1 The Council is entitled (but not required) to adopt a policy for the licensing of the hackney carriage and private hire trade. Policies play an important role in ensuring fair and consistent decision making, although a policy cannot fetter the discretion of the Council and each case must be determined on its own merits.
- 1.5.2 The Statement of Policy will last for a maximum of three years, and will be adopted by Full Council on the recommendation of the Licensing and Appeals Committee.

1.6 Financial and Value for Money Considerations

- 1.6.1 Fee levels for taxi licences are set by the Licensing Authority.

1.7 Risk Assessment

- 1.7.1 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.

1.8 Equality Impact Assessment

- 1.8.1 There is no perceived impact on end users.

1.9 Recommendations

- 1.9.1 Members are RECOMMENDED to approve the draft policy for consultation

Background papers:

Current Hackney Carriage and Private Hire Policy
Town Police Clauses Act 1847
Local Government (Miscellaneous Provisions) Act 1976

contact:

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Director of Central Services and Monitoring Officer

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

2018 – 2023



This policy comes into force on the 16 April 2018

Overview

Policy

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1 Introduction

1.1 Adoption of private hire licensing provisions

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

1.2 Process steps to develop this policy – 2018 – 2023

Consultation agreed at the Licensing and Appeals Committee	28 September 2017
Public Consultation	1 October 2017 – 31 st December 2017
Licensing and Appeals Committee	13 March 2018
Full Council adopt policy	10 April 2018
New Policy comes into force	16 April 2018

1.3 Key changes to previous policy

1.3.1 The main changes contained in this Hackney Carriage and Private Hire Taxi Policy 2018 – 2023 from the current version are:

- **Induction Seminars** – Monthly induction seminars for all new applicants to cover safeguarding and Codes of conduct expected from Tonbridge & Malling Borough Council (page 5)
- **Amendments relevant to the Equalities Act 2010** – with respect to wheelchair accessible vehicles (page 12).
- **New design front door logos for Hackney Carriage Vehicles** – The new signs will show the plate number of the Hackney Carriage and Private Hire Vehicles (page 16 and 17).
- **Working with less paper** – Some licences, including Insurance Certificate will be allowed to be stored on electronic devices (PDA's) rather than in paper format in the licensed vehicle (page 16 and 61)
- **Updated CCTV Guidance** (page 17)
- **Special Events Vehicles** – Conditions for licensing Special Events Vehicles which may come outside of the usual age restrictions of a Private Hire vehicle (page 20).
- **Lost Property** – Giving details of where to hand in any lost property (page 23).
- **Updated Mentor Guidance**- New form for the Mentor to complete during a drivers probationary period (page 24).
- **DBS** – Requirement for online certificate through The Update Service (page 27)
- **Immigration Act 2016** came into force on 1 December 2016 - immigration checks on driver applicants (page 29).
- **Changes to Operator Licences** – Following the introduction of the Deregulation Act 2015 (page 31).
- **Taxi Stands** – Introduction on late night Taxi Stands within the High Street and revocation of some existing appointments (page 38).
- **Roof Box lights for Hackney Carriage Vehicle** – White and Silver only (page 48)
- **Tinted Windows** - Private hire and Hackney carriage vehicles must have at least 75 per cent of light passing through the front windscreen, 70 per cent through both front side facing windows, and 50 per cent through all other side facing windows (page 42)
- **No smoking or the use of E-Cigarettes and Vaping devices** is permitted in licensed vehicles by Passengers or Drivers. (page 44)
- **Insurance Certificate** - When submitting an application an original certificate needs to be produced in person or by email (page 55)

1.4 Licensing of drivers and vehicles

- 1.4.1 The key aim of licensing hackney carriage and private hire vehicles is to offer a flexible, multi-skilled resource (with high levels of knowledge and experience), embracing unified working practices, exhibiting best working practice, whilst maintaining a high service delivery with excellent customer service.
- 1.4.2 Hackney carriage and private hire vehicles have a specific role to play in an integrated transport system. They are able to provide services in situations where public transport is either not available or outside “normal” hours of operation such as in the evenings or at weekends or for those with mobility difficulties.
- 1.4.3 Hackney carriage and private hire licensed drivers undertake school contracts with Kent County Council, transporting young children, people with disabilities and vulnerable people
- 1.4.4 Public safety is a paramount consideration when processing application forms prospective candidates by ensuring only fit and proper persons are licensed to be entrusted to drive members of the public safely, professionally and courteously to and from their required destinations.
- 1.4.5 **Induction Seminars** –Monthly induction seminars will take place for all new applicants to cover safeguarding and Codes of Conduct expected from Tonbridge & Malling Borough Council

1.5 Numbers of licences

- 1.5.1 The current numbers of licences is shown on the Council’s web site at:

www.tmbc.gov.uk/keyinfo

1.6 Appraising the current Licensing Services for Taxis

- 1.6.1 In appraising the current licensing services for taxis the council has reviewed and is making on-going changes through channel shift (paper to electronic communication) and transition to people, process, technology and culture to ensure that we can deliver a first class customer focused service.
- 1.6.2 Licensing Services works within a dynamic customer facing environment where we need to ensure that every applicant knows what is expected from them.

1.7 Service Aims

- 1.7.1 The Licensing Services aims are:
- To meet statutory responsibilities in a cost effective and responsible manner
 - For all licensed drivers to provide a first class customer service.
 - To support a strong night-time economy whilst ensuring residents have a good night 'sleep.

1.8 Legislative framework

- 1.8.1 This Statement of Licensing Policy is written pursuant to the powers conferred by the Town Police Clauses Act 1847 (as amended), and the Local Government (Miscellaneous Provisions) Act 1976 (as amended) which places on Tonbridge and Malling Borough Council (the “Licensing Authority”) the duty to carry out the function of licensing the hackney carriage and private hire trade.
- 1.8.2 In undertaking its licensing function, the Council will also have regard to other relevant legislation (and any legislation replacing or amending the same or any regulations made there under) including:
- Transport Act 1980;
 - Transport Act 1985
 - Road Vehicles (Constructions and Use) Regulations 1986;
 - Crime and Disorder Act 1998;
 - Environmental Protection Act 1990;
 - Health Act 2006 and Smoke-free Regulations 2006/7;
 - Legislative and Regulatory Reform Act 2006;
 - Road Safety Act 2006;
 - Equality Act 2010
 - Deregulation Act 2015
 - Immigration Act 2016
 - Human Rights Act 1998
 - Regulators Code

1.9 Delegations

- 1.9.1 In accordance the Constitution of Tonbridge and Malling Borough Council the Licensing Officers are authorised to exercise the delegated powers detailed in **Appendix N**

1.10 Background to Policy

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

1.11 Best Practice Guidance

- 1.11.1 The Department for Transport (DfT) has national responsibility for hackney carriage and private hire legislation in England and Wales. As a result of the Office of Fair Trading producing its report on the UK hackney carriage and private hire trade, the DfT was asked to produce Best Practice Guidance for local licensing authorities.
- 1.11.2 The Best Practice Guidance was produced and first issued in October 2006. It is directed at local authorities in England and Wales who will “decide for themselves the extent to which they wish to make use of it or adapt it to suit their own purposes”.
- 1.11.3 The DfT in its revised 2010 Guidance has stated that many licensing authorities considered their licensing policies in the context of the Guidance. However, in order to keep their guidance up to date, they embarked on a revision. The key premise remains the same - that it is, for individual licensing authorities to reach their own decisions both on overall policies and on individual licensing matters, in light of their own views of the relevant considerations.
- 1.11.4 This document interprets the DfT’s considered views about what constitutes “Best or Good Practice” in terms of hackney carriage and private hire licensing, together with local factors specific to this Borough.
- 1.11.5 The Council, in adopting this licensing policy recognises both the needs of residents for safe, convenient and effective taxi transport while facilitating a sustainable taxi industry and the importance of this provision to the local economy and vibrancy of the borough.
- 1.11.6 This Hackney Carriage and Private Hire Vehicle Licensing policy is also intended to ensure that both the trade and the public have a document that fully explains the licensing procedures in a clear and transparent manner.
- 1.11.7 The licensing team does not issue Driver, Operator and Vehicle conditions to new applicants or current drivers when changes are made. Drivers, Operators and Vehicle Proprietors are required to keep themselves up-to-date with all changes in legislation and policy.
- 1.11.8 TMBC email all drivers with any changes to working practices.

1.12 Council's Vision and Values

1.12.1 To be a financially sustainable Council that delivers good value services, provides strong and clear leadership and, with our partners, addresses the needs of our Borough.

1.12.2 We will be guided in the delivery of the above vision by the following core values:

- **Taking a business-like approach** - focusing on ensuring good value for money, continuously reviewing how our services are provided and funded, focusing our available resources where they will have most beneficial impact, and maximising commercial opportunities.
- **Promoting Fairness** - acting transparently at all times and being accountable for what we do, and promoting equality of opportunities.
- **Embracing Effective Partnership Working** - achieving more by working and engaging effectively with a wide range of local partners from the private, public, voluntary and community sectors.
- **Valuing our environment and encouraging sustainable growth** - keeping our towns, villages and countryside clean and well maintained, planning for our future homes and jobs and seeking investment in economic regeneration and infrastructure.

1.13 Objectives

1.13.1 In setting out its policy, Tonbridge and Malling Borough Council seeks to promote the following safeguarding objectives by:

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

Overview

- 1.13.2 The aim of the licensing process in this context is to regulate the hackney carriage and private hire trade in order to promote the above objectives. It is the Licensing Authority's wish to facilitate well-run and responsible businesses which displays sensitivity to the wishes and needs of the general public.
- 1.13.3 In exercising its discretion in carrying out its regulatory functions, the Licensing Authority shall have regard to this policy document and the objectives set out above. Applicants are therefore advised to read this policy carefully. Compliance with this policy is likely to assist the applicant to avoid the delay and expense of a hearing before the Licensing & Appeals Panel, and the risk of a refusal or the addition of unwanted licence conditions.
- 1.13.4 This is not to say that an application which complies with the policy will necessarily be granted or one that does not will necessarily be refused. The licensing authority will always consider the merits of the case, and this policy is intended to act as a guide rather than a rule. However, the policy represents the Council's view of the best means of securing its licensing objectives in most normal cases, and it is intended to act as an aid to consistent decision making. It has been drawn up in consultation with the licensed trade, together with community stakeholders and other interested parties.
- 1.13.5 This policy helps to promote efficient and effective approaches to regulatory inspection and enforcement, which improve regulatory outcomes without imposing unnecessary burdens. This is also in **accordance with the Regulator's Compliance Code. However, despite the existence of this policy, each application or enforcement measure shall be considered on its own merits.**
- 1.13.6 In certain instances we may conclude that a provision in the policy or code is either not relevant or is outweighed by another provision. We will ensure that any decision to depart from the policy or code will be reasoned, based on material evidence and documented giving clear and compelling reasons for so doing.
- 1.13.7 The Council acknowledges that the current fleet of hackney carriages and private hire vehicles and drivers set a reasonable standard of appearance and performance.
- 1.13.8 Whilst the number of occasions where suspension, revocation or prosecution are very rare, this policy also emphasises the full range of enforcement options available should they be needed. Any enforcement action taken will be proportionate and each case will be considered on its own merits.

Definitions

2 Definitions

2.1 Throughout this document:

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

3 Vehicles

3.1 Limitation of Numbers

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

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

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

3.2 Vehicle Specifications

- 3.2.1 Licensing Authorities have a wide range of discretion over the types of vehicle that they can licence as hackney carriages or private hire vehicles.
- 3.2.2 The Best Practice Guidance suggests that local Licensing Authorities should adopt the principle of specifying as many different types of vehicle as possible. Authorities are encouraged to leave it open to the trade to put forward vehicles of their own choice which can be shown to meet basic criteria. In that way, emerging new designs for vehicles can be readily taken into account.
- 3.2.3 The Council is empowered to impose such conditions, as it considers reasonably necessary, in relation to the grant of a hackney carriage or private hire vehicle licence. Hackney carriages and private hire vehicles provide a necessary service to the public, so it is appropriate to set standards for the external and internal condition of the vehicles, provided that the standards are reasonable and proportionate.

3.3 Accessibility

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

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

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

3.4 Assistance Dogs

3.4.1 Under the Equality Act 2010, licensed drivers of taxis and private hire vehicles are under a duty to carry passengers with guide, hearing and other assistance dogs.

When carrying such passengers, drivers have a duty to:

- Convey the disabled passenger’s dog and allow it to remain under the physical control of the owner; and
- Not to make any additional charge for doing so.

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

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

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

3.5 Designated vehicles and Voluntary list of accessible vehicles

- 3.5.1 Tonbridge & Malling Borough Council will be publishing two lists on the council website in respect to wheelchair accessible vehicles:

A “designated vehicles list” of all wheelchair accessible vehicles will be maintained in accordance with section 167 of the Equalities Act 2010.

“**designated vehicles**” – where a person can use a Hackney Carriage or Private Hire Vehicle without getting out of a wheelchair (Ramp etc.)

”**voluntary list**” – where a Hackney Carriage or Private Hire Vehicle that are accessible to passengers in wheelchairs, who are able to transfer from their wheelchair into a seat within the vehicle and the wheelchair can be folded down and placed in the vehicle.

- 3.5.2 Section 165 of the Equalities Act 2010 requires the drivers of those vehicles to carry passengers in wheelchairs provide assistance to those passengers and prohibits them from charging extra.

- 3.5.3 The requirements of section 165 do not apply to drivers who have a valid exemption certificate and are displaying a valid exemption notice in the prescribed manner. An exemption certificate can be issued under section 166 of the Act, which is already in force. This allows Licensing Authorities to exempt drivers from the duties under section 165 where it is appropriate to do so, on medical grounds or because the driver’s physical condition makes it impossible or unreasonably difficult for them to comply with those duties.

3.6 Road Tax

- 3.6.1 Failure to have road tax will result in suspension of the licence until the vehicle is taxed.

- 3.6.2 All vehicles are checked to ensure they have paid road tax at the following web site:

<https://www.gov.uk/check-vehicle-tax>

3.7 Environmental Considerations

- 3.7.1 The Best Practice Guidance asks licensing authorities to consider how far their vehicle licensing policies can and should support any local environmental policies that they have adopted, bearing in mind the need to ensure that the benefits outweigh costs (in whatever form). They suggest that authorities may, for example, wish to consider setting vehicle emissions standards, perhaps by promoting cleaner fuels.

- 3.7.2 It is considered that efforts should be made, through the licensing policy, to improve, as far as possible, the efficiency of vehicles licensed in the borough by, in particular, reducing the levels of CO2 emitted. There is a movement towards the use of alternative fuels and in many areas LPG conversions to vehicles are perfectly acceptable and encouraged. This will, however, be dependent on supplies of such fuel being made readily available. It may also be the case that

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the installation of storage tanks into vehicles may affect the ability to carry luggage.

Clearly emissions from hackney carriages and private hire vehicles could be reduced further, by encouraging better maintenance of vehicles and by switching off engines when stationary or idling, particularly at hackney carriage ranks. It is proposed that this aspect be tackled through education and promotion.

3.8 Vehicle age and other criteria

- 3.8.1 When first licensed, **all** vehicles must be less than six years old from the date of first registration. Exemption may apply under the Limousine and Special Event Vehicles section shown at **Appendix B**.

Vehicle	Age Criteria
Licensing a vehicle for the first time	All vehicles must be less than six years old (including wheelchair accessible vehicles but excluding Limousines and Special Event Vehicles) from the date of first registration.
Re-licensing a Saloon, estate, hatchback, or multi-passenger vehicle	Ten years from the date of first registration
Re-licensing a wheelchair accessible vehicle	Fifteen years from the date of first registration
Limousines and Special Event Vehicles	There will be no age restriction on licensing limousines and Special Event Vehicles

- 3.8.2 The Council will not licence any vehicle that is already licensed with another Council or with Transport for London.

- 3.8.3 Saloon, estate, hatchback, or multi-passenger type hackney carriages/private hire vehicles, may be licensed for a maximum of ten years from the date of first registration, subject to six-monthly testing by one of the Council's authorised garages. Each six-monthly test requires the vehicle to obtain a "Compliance Pass Certificate".

- 3.8.4 Wheelchair accessible vehicles may be licensed to a maximum of fifteen years from the date of first registration, subject to six-monthly testing by the Council's authorised garage. Each six-monthly test requires the vehicle to obtain a "Compliance Pass Certificate".

- 3.8.5 The physical condition of a licensed vehicle is an important criteria used when assessing the suitability of a vehicle. In exceptional circumstances a licence may

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not be renewed if the physical condition of the vehicle is not of a suitable standard despite having passed a MoT test.

- 3.8.6 Hackney carriage and private hire vehicles (including stretch limousines vehicles and special events vehicles) are subject to both legislative and locally imposed conditions. **These combined conditions can be found in appendices A and B respectively.**
- 3.8.7 There is no restriction on the minimum number of seats to allow applications for vehicles with room for one passenger to be considered on their merits.
- 3.8.8 Vehicles must have no damage affecting the structural safety of the vehicle and must not have been written off for insurances purposes at any time.

3.9 Vehicle Testing and Inspections

- 3.9.1 An MOT pass certificate, from an inspection carried out by one of the authorised testing stations, must be produced for all vehicles. Subsequent MOT pass certificates must be produced annually.
- 3.9.2 In addition to the MOT testing, the vehicle must also be mechanically tested and inspected by a Council's nominated garage. This process is referred to as acquiring a "Compliance Certificate". When required to produce an MOT pass certificate, a "Compliance Certificate" pass certificate must also be produced.
- 3.9.3 A vehicle is required to be re-examined, when the licence has been in force for six months, to ensure that it continues to meet the standards referred to above.
- 3.9.4 The number of approved testing stations will be a minimum of six, all strategically positioned within the Borough and that the cost of the MOT test and compliance be determined by the provider.
- 3.9.5 The Authority may undertake its own programme of inspections between formal MOT tests, where an Officer is unsure as to a vehicle's compliance. The vehicle will be referred to the Council's nominated testing station for a formal assessment. Where the testing requirements are not met, the Officer may either agree a period of time for ratification and re-inspection, or suspend the vehicle until rectification and re-inspection has occurred. The test will be at the Proprietor's expense.

3.10 Insurance

- 3.10.1 There shall be a policy of insurance, or such security as complies with the requirements of Part IV of the Road Traffic Act 1972, during the duration of the vehicle licence. Under no circumstances will a vehicle licence be issued or renewed without proof that this section has been complied with.
- 3.10.2 When submitting an application an original certificate needs to be produced in person or by email.

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- 3.10.3 The registered owner of the licensed vehicle shall ensure that it is adequately insured to the satisfaction of the Council and all relevant legislation at all times that it is available for the carrying of passengers.
- 3.10.4 At any time when the requirements of this section of the Policy have not been satisfied, the vehicle licence will automatically be suspended until such time as adequate insurance has been obtained.
- 3.10.5 A copy of the current vehicle insurance must be available for inspection at all times. This can be a Paper copy, or a copy stored on a phone or tablet device.

3.11 Vehicles involved in an accident

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

3.12 Signage

- 3.12.1 Within the Borough of Tonbridge and Malling both hackney carriages and private hire vehicles are required to **permanently display** licence plates externally on the rear of the vehicle.
- 3.12.2 This is a key feature in helping to identify vehicles that are properly licensed. The plate details Tonbridge and Malling Borough Council as the Licensing Authority, the vehicle make, model, colour and registration mark, the number of passengers the vehicle can carry and the expiry date of the licence.
- 3.12.3 In addition to the external plate all vehicles must display a small internal plate containing the same details as the external plate. This plate can be read from both inside and outside of the vehicle and must be positioned at the top of the front nearside corner of the windscreen.
- 3.12.4 Hackney carriage vehicles are required to display permanently affixed signage to the front side doors of the vehicle. This signage contains the Council logo and the words "Tonbridge & Malling Borough Council" and "TAXI" and shows the plate number.
- 3.12.5 Private Hire Vehicles required to display permanently affixed signage to the front side doors of the vehicle showing the plate number.
- 3.12.6 All hackney carriage vehicles, except those with built-in roof signs must carry white or silver illuminated roof-mounted sign indicating that they are a taxi and these must be lit when plying for trade. In order to differentiate between the two types of licensed vehicle, private hire vehicles must not carry roof-mounted signs of any kind, and they must have no signs (roof-mounted or otherwise) using the words "Taxi", "Hackney", "Cab", or "For hire".

3.13 Plate Exemption

- 3.13.1 Under certain circumstances a private hire vehicle operator may make a plate exemption application. This is normally made by operators involved in chauffeur work or work of an exclusive nature. If granted this absolves the operator from the requirement to display both the internal and external licence plates. In these circumstances plates will still be issued and should be carried within the vehicle, together with a signed notice of exemption.
- 3.13.2 Before any plate exemption notice is issued, the operator must satisfy the licensing officer that such an exemption would be integral to his business.
- 3.13.3 Those applicants looking to run or work for an Executive Operation, dealing only with Executive Chauffeur work may be able to exempt themselves from the Knowledge Test if they can provide details of current membership to the British Chauffeurs Guild or similar recognised organisation.
- 3.13.4 Special Events Vehicles will normally be exempted from displaying a plate automatically due to the nature of the work they will be undertaking.
- 3.13.5 Plate Exempt Private Hire vehicles, Limousines and Special Events Vehicles will be exempt from displaying door insignia.

3.14 Advertising

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

3.15 Security and Closed Circuit Television (CCTV)

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

3.16 Stretch Limousines

3.16.1 Stretched limousines are elongated saloon cars that are more frequently being used for mainstream private hire work. The number of stretched limousines being imported, particularly from the United States, has been increasing. Their use generally includes all private hire work plus special occasions such as days at the races, stag/hen parties and children's birthday parties.

3.16.2 For the purpose of this policy and licence conditions a stretch limousine is defined as follows:

- A stretch limousine is a motor vehicle that has been lengthened by the insertion of an additional body section and modified by a coachbuilder to contain luxury facilities and fixtures;
- that is capable of carrying up to but not exceeding 8 passengers; and
- that is not a decommissioned military or emergency service vehicle.

3.16.3 Most limousines are imported for commercial purposes and are, therefore, required to take an Individual Vehicle Approval (IVA) test. They cannot be approved as Passenger Carrying Vehicles (PCV) because they cannot meet the required standards for the door arrangements and means of escape in an emergency.

The IVA Scheme is an Inspection Scheme for vehicles that are not approved to British and European Standards and its purpose is to ensure that these vehicles meet modern safety standards and environmental standards before being used on public roads. When presented for an IVA test the vehicle is produced with a declaration that it will never carry more than eight passengers.

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

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

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

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

- apply to a vehicle used for bringing passengers or goods within a controlled district in pursuance of a contract for the hire of the vehicle made outside the district if the vehicle is not made available for hire within the district;
- apply to a vehicle while it is being used in connection with a funeral or a vehicle used wholly or mainly, by a person carrying on the business of a funeral director, for the purpose of funerals;
- apply to a vehicle being used in connection with a wedding.

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

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

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

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

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

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

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3.17 Special Events Vehicles

- 3.17.1 The Licensing of Special Events Vehicles will be dependent on the Council being satisfied that the vehicle is suitable in size, type and design for use as a Special Events Vehicle. The prime consideration of the Council is the safety and comfort of the travelling public.
- 3.17.2 The Council considers the following types of vehicles to be Special Events Vehicles when considered in the context of licensing;
- Decommissioned emergency service vehicles
 - Vintage and luxury vehicles (where the normal private hire vehicle age limits would exclude them)
 - Other non-standard type converted vehicles used for special events.
- 3.17.3 The ability to licence a vehicle as a Special Events Vehicle will be restricted to stretched Limousines and other types of “novelty” vehicles as outlined in **Appendix B**. Mass produced saloon cars or wheelchair accessible vehicles will be required to be licensed under the normal Hackney Carriage or Private Hire car requirements.
- 3.17.4 Special Events Vehicles will generally be used for special occasions such as days at the races, stag/hen parties, weddings, proms and children’s birthday parties.
- 3.17.5 In accordance with the guidance, all applications to licence Special Events Vehicles as private hire vehicles will be treated on their merits. The Council strongly recommends that anyone wishing to licence a Special Events vehicle contacts the licensing authority before purchasing a vehicle to ensure that advice can be provided as to whether the vehicle will meet the required standards.
- 3.17.6 Once licensed in Tonbridge and Malling Borough Council as a private hire vehicle the Special Events Vehicle can only be driven by a private hire driver licensed by the Council. This applies at all times whilst the vehicle holds a private hire vehicle licence.

3.18 Contract Vehicles

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

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

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- 3.18.2 The Department for Transport website gives details of the guidance notes on what is, and what is not, a private hire vehicle please find link to webpage below:

www.gov.uk/government/publications/private-hire-vehicle-licensing-guidance-note

3.19 Funeral Vehicles

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

3.20 Wedding Vehicles

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

3.21 Courtesy Cars

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

3.22 Ambulances and Other Patient Transport

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

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

3.23 Other Patient Transport -

- 3.23.1 “vehicles which operate as part of a formal Patient Transport Service – usually non-emergency, planned transport of patients, where the booking will only be made if the person to be carried has been assessed by a health professional as having a medical need for transport; these vehicles will be contracted to a health care provider and cannot be used for "social" hiring's;”
- 3.23.2 Other patient transport services provided by Primary Care Trusts, or Voluntary services, that do not qualify for exemption will require licensing as a private hire vehicle

3.24 Voluntary Sector Transport

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

3.25 Motorbikes

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

3.26 Livery

- 3.26.1 Hackney carriage vehicles must be wholly white wholly silver.
- 3.26.2 Private hire vehicles can be any colour.

3.27 Application Procedure

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

3.28 Consideration of Applications

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

3.29 Probationary Private Hire Vehicles

- 3.29.1 If a Probationary Driver wishes to licence their own vehicle as a Private Hire Vehicle, they must first seek the permission of the Mentor or holder of the Private Hire Operators Licence.
- 3.29.2 Vehicles licensed to Probationary Drivers will only be licensed to the same expiry date of the Probationary Private Hire Badge.
- 3.29.3 Vehicles licensed to Probationary Drivers cannot be exempted from displaying a Plate. Once the drivers badge is renewed to a Private Hire Licence, the vehicle can be considered to be exempted from displaying a plate should the work undertaken by the particular vehicle deem it necessary and the appropriate proof provided.

3.30 Grant and Renewal of Licences

- 3.30.1 The Guidance makes no recommendations in respect of the duration of hackney carriage or private hire vehicle licences, and legislation limits the maximum period of such licences to 12 months. Probationary private hire vehicles will be licensed for a period of 6 months.
- 3.30.2 Hackney carriage or private hire vehicle licences will thereby continue to be issued for a one-year period from the date of grant, subject to the power to grant a licence for a shorter period, should this be appropriate in the circumstances.
- 3.30.3 When submitting renewal applications, applicants should be aware that it may take up to five working days to process and issue a licence once all the necessary paperwork has been received. If the licence has not been issued at the point when an existing licence expires, the licence holder must cease operating until the new licence has been received.

3.31 Lost Property

- 3.31.1 It is the responsibility of the Hackney Carriage and Private Hire Driver to check the vehicle for lost property frequently during their shift.
- 3.31.2 Lost property can be handed in at the Council Offices at Tonbridge Castle or Kings Hill.
- 3.31.3 Any Lost Property must be handed into Licensing Services, where the details will be entered into the Lost Property Log and kept for a period of 12 months.
- 3.31.4 Any monies unclaimed will be donated to the Mayors Charity. Any other items will be given to Charity shops or will be destroyed.

4 Drivers

4.1 Licences

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

4.1.2 The probationary badge requires:

- A person from the taxi trade known as a “Mentor” to sign the **Probationary Mentor Form** and oversee the new driver as they work through their first six months
- A “Mentor” needs to have been licensed by Tonbridge and Malling Borough Council for at least a period of **three** years
- All applicants will still be required to complete all statutory checks prior to being issued with a probationary badge.
- Applicants will be issued with a Probationary Driver Review Form once their Licence has been issued. It is the responsibility of the Driver and the Mentor to ensure performance reviews are completed after three and six months. Failure to complete the Probationary Driver Review Form may result in the six month period being restarted.
- Drivers must bring the completed Probationary Driver Review Form to the council offices 7 – 10 days prior to the expiration date of their Probationary Badge. The completed form, along with the required fee will then be attached to the signed Drivers Renewal Letter and the new badge will be produced.
- Renewal letters will be held at the Council offices, they will not be posted out.
- It remains the responsibility of the Mentor to inform the Licensing Team if a Probationary Driver leaves or is asked to leave their employment. Failure to do this could result in the Mentor losing his right to employ Probationary Drivers for a period of time deemed necessary by an Authorised Officer.
- During the six month Probationary period, if a Mentor is found to be allowing or encouraging a Probationary Driver to act inappropriately or in any way that breaches the Tonbridge & Malling hackney carriage and private hire licensing policy, the Mentor could lose the right to employ Probationary Drivers for a period of time deemed necessary by an Authorised Officer.
- As stated in the General declaration on the Probationary Mentor Form, if a Probationary Driver leaves or is asked to leave the employment of their Mentor, the driver’s Probationary Badge must be returned immediately along with the Probationary Driver Review Form.

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- During the six month probationary period, a Probationary Driver can only undertake work from the Operator specified on the Probationary Badge.
- If a Probationary Driver wishes to licence his/her own vehicle as a Private Hire Vehicle, they must first seek the permission of the Mentor or holder of the Private Hire Operators Licence.
- Vehicles licensed to Probationary Drivers will only be licensed to the same expiry date of the Probationary Private Hire Badge.
- Vehicles licensed to Probationary Drivers cannot be exempted from displaying a plate. Once the drivers badge is renewed to a Private Hire Licence, the vehicle can be exempted from displaying a plate should the work under taken by the particular vehicle deem it necessary.
- During the six month probationary period, if a probationary driver changes Mentor's and therefore requires a new badge to be produced, they must pay the fee.

4.1.3 ***The General declaration for a candidate agreeing to a six months probationary badge is:***

1. The Licence conditions relating to the licences, for which this application is being made, have been read as well as Guidance Notes.
2. All answers given to Tonbridge and Malling Borough Council are true.
3. I authorise the Council to make enquiries of any persons etc. named on this form.
4. The probationary badge is for a Private Hire driver's licence - I, the sole applicant, will not permit any badge issued to me to be worn by any other person and will surrender the same upon demand.
5. As a Probationary Badge holder I will work only for the Company which is named on this form and on my Probationary Badge for the duration of my probationary period (six months).
6. If I leave employment from the Mentors Company my badge is invalid and must be returned to the TMBC Licensing team immediately.
7. If I leave employment from the Mentors Company and find another Mentor the six month probationary period will start again.
8. No refund on withdrawn or refused applications.

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

4.2 Age and Experience

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

Drivers

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

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

4.2.3 Where this requirement is not satisfied, the hackney carriage/private hire driver's licence will be automatically suspended pending compliance.

4.2.4 Applicants must ensure their DVLA Driving Licences are kept up to date and that the address remains correct at all times. Applicants must also ensure they complete DVLA Licence renewals in a timely manner.

4.3 Driver Knowledge Tests

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

4.3.2 The procedures in relation to the above are set out in **Appendix E**.

4.4 Driving Proficiency and Qualifications

4.4.1 The Council believes that as a profession, hackney carriage and private hire drivers have a special responsibility for the safe transportation of fare-paying passengers. An assessment of a driver's ability should, therefore, be obtained by all new applicants.

4.4.2 All new applicants for hackney carriage/private hire driver's licences are required to produce evidence that they have successfully completed a relevant practical driving test with Green Penny Ltd.

Booking form can be found at:

<http://www.greenpenny.co.uk/taxi-assessment-booking-form>

4.5 Medical Examination

4.5.1 The DfT recognises that it is clearly good practice for medical checks to be made on each driver as a condition for the initial grant of a licence and subsequent renewal. The Council has adopted the relevant DVLA medical standard i.e. Group 2. This is the standard applied to the licensing of lorry and bus drivers and is considered to be best practice.

4.5.2 A medical examination by a General Practitioner, to assess an applicant's fitness to drive a licensed vehicle, is required before a licence may be granted. A DVLA Group 2 Standard of medical fitness for professional drivers will be required.

- 4.5.3 A request form for a medical examination, which may be presented to the applicant's GP, is obtainable from the Council. The applicant will be responsible for paying the fee for the examination to the relevant surgery. On completion of the examination, the report must be submitted to the Council.
- 4.5.4 Existing licence holders, having presented a medical certificate upon first being granted a licence, will be required to be re-examined before the renewal of the drivers licence, every three years. Drivers who are 65 years old and over must undertake a medical examination annually. More frequent checks will also be necessary if, in the opinion of the medical practitioner, it is necessary.
- 4.5.5 Licence holders must advise the Council of any deterioration in their health that may affect their driving capabilities. For the avoidance of doubt, the following medical conditions must be notified to the Council as soon as reasonable practicable; however, this list is not exhaustive:
- Any heart-related condition;
 - Abnormal blood pressure;
 - Diabetes (Type 1 or Type 2);
 - Epilepsy;
 - Sudden attacks of giddiness or fainting;
 - Conditions causing excessive daytime sleepiness such as sleep apnoea;
 - Alcohol or drug dependency;
 - Double vision or uncorrected vision disorder
 - Mental or psychological disorders; or
 - Any other condition that may affect the ability to drive.
- 4.5.6 Where there is any doubt as to the medical fitness of the applicant, the Council may require the applicant to undergo further medical examination by a Doctor appointed by the Council. This will be at the applicant's own expense.
- 4.5.7 Where there remains any doubt about the fitness of any applicant, the Council will review the medical evidence and make any final decision in the light of the medical evidence available.
- 4.5.8 The format of the medical examination will be that prescribed by the standard Group 2 DVLA form issued. This form is available from Licensing Services on payment of the fee.

4.6 Disclosure and Barring Service

- 4.6.1 A Disclosure and Barring Service (DBS) check on a driver is seen as an essential safety measure in assessing whether or not an applicant is suitable to hold a licence. An Enhanced Disclosure provided by the Disclosure and Barring Service is required from all applicants, whether new or renewal applications. These disclosures include details of spent convictions and police cautions.
- 4.6.2 The Rehabilitation of Offenders Act 1974 does not apply to applicants for Hackney Carriage/Private Hire driving licences. Applicants are required to disclose all convictions, including those that would normally be regarded as spent.
- 4.6.3 The applicant will be responsible for payment of the appropriate fee.

4.7 The Update Service

- 4.7.1 There is an option for every licensed driver applicant to hold and maintain an on-line Certificate through **The Update Service**.
- 4.7.2 The online Disclosure and Barring Service (DBS) update service allows:
- applicants to keep their DBS certificates up to date
 - employers to check a DBS certificate
- 4.7.3 You need to register to use the update service <https://www.gov.uk/dbs-update-service>
- 4.7.4 If you've not yet applied for a DBS check, you can register for the update service using your application reference number (the 'form ref' on your application form). DBS must receive your application form within 28 days.
- 4.7.5 If you've already applied, you can register for the update service using your DBS certificate number. You must do this within 30 days of the certificate being issued.
- 4.7.6 The licence or renewal is conditional upon there being no adverse information revealed on the DBS disclosure that would render the applicant not 'fit and proper'. If the licence is issued (which would only be under exceptional circumstances) and relevant information is later revealed on a disclosure certificate then that licence will be subject to review and possible revocation.
- 4.7.7 The Council is bound by rules of confidentiality and will not divulge information obtained to any third parties. The applicant for a DBS check will be sent a certificate to their home address. Information arising from disclosures will be kept on file only for as long as necessary and usually no longer than six months.
- 4.7.8 Information received from the Disclosure and Barring Service will normally be destroyed after a decision has been made concerning the application
- 4.7.9 For more information on the retention and disposal of the DBS certificate please go online and see Tonbridge and Malling Borough Council's policy.

4.8 Relevance of Convictions and Cautions

- 4.8.1 A guide to the relevance of previous convictions, cautions and fixed penalty notices is in **Appendix D**.
- 4.8.2 The Council will consider each application on its merits having regard to this policy
- 4.8.3 In assessing whether the applicant is a "fit and proper" person to hold a licence the Council will consider each case on its merits. It will take account of cautions, convictions, and fixed penalty notices but only in so far as they are relevant to an application for a licence. Upon receipt of a licence application the Licensing Officer will assess from the information provided whether any or all of the convictions have any relevance as to whether the applicant is a fit and proper person to hold a licence and, refer to the Licensing and Appeals Panel for decision.

- 4.8.4 In relation to cautions the Council will have regard to the class and age of the offence and the age of the applicant when the offence occurred when considering their relevance to an application.
- 4.8.5 In relation to previous convictions the Council will have regard to the following:
- The class of the offences;
 - The age of the offences;
 - The apparent seriousness, as gauged by the penalty.
- 4.8.6 Without prejudice to the general right to refer any application to the Panel, applications will be referred to the Licensing and Appeals Panel where the applicants record includes one or more of the following:
- Any term of imprisonment or custody;
 - Any conviction for a violent or sexual offence, or dishonesty;
 - Any serious motoring offence, such as dangerous driving, driving whilst disqualified, or drink driving;
 - Any drug-related offence; or
 - Any combination of less serious offences where the Licensing officer is not minded to grant the application
 - More than six points on their licence.
- 4.8.7 Where applicants have only been residing in the UK for six months or less the applicant **must** produce a Certificate of Good Conduct, or equivalent document, issued and authenticated by the appropriate embassy or a statutory declaration of absence of convictions, signed by a solicitor.
- 4.8.8 A DVLA driver endorsement check will be required upon applications for new or renewal of a driver licence, to ensure that the information held by the DVLA is in accordance with the information submitted by the applicant.

4.9 Immigration Check

- 4.9.1 On the 1st December 2016 the Immigration Act 2016 came into force. It has now become a duty of the Council to carry out immigration checks on new applicants and those renewing a driver's badge. This is to ensure that the applicant has the right to work in the UK. A licence will not be granted until there is sufficient proof that the applicant has the right to work in the UK.

4.10 Grant and Renewal of Licences

- 4.10.1 An application for a hackney carriage or private hire driver's licence must be made on the specified application form. Drivers' licences are normally granted for a period of three years.
- 4.10.2 A driver may apply for a six months "probation driver's badge" where a mentor from the Taxi trade works with the new driver.
- 4.10.3 The application procedure is set out in **Appendix C**.
- 4.10.4 Applicants need to submit the application to renew the licence at least one week prior to the licence expiry to ensure that the licence is renewed on time. Officers may only accept complete applications comprising all the necessary

paperwork. If an application is received late the applicant may be unlicensed for a period of time during which they will be unable to work as a licensed hackney carriage or private hire driver.

- 4.10.5 The licence fees payable are subject to periodic review. Whilst the fees are set by the Licensing Authority they will be published in a local newspaper at least 28 days prior to the proposed operational date, for constructive comment. They will also be published together with other Council licensing fees in the Fees & Charges document and on the Council's website under the licensing link.

4.11 Conditions of Licence

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

4.12 Code of Good Conduct

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

5 Private Hire Operators

5.1 Operators

- 5.1.1 Any person who operates a private hire service utilising one or more private hire vehicles must apply to the Council for a Private Hire Operator's Licence.
- 5.1.2 The primary objective in licensing private hire operators is the safety of the public, both in the vehicles and at the operator's premises.
- 5.1.3 A private hire vehicle may only be despatched to a customer by a private hire operator who holds a private hire operator's licence. Such a licence permits the operator to make provision for the invitation or acceptance of bookings for a private hire vehicle.
- 5.1.4 With the introduction of the Deregulation Act 2015 Private Hire Operators are allowed to sub contract work to other licensed Private Hire Operators who hold licences with a different Licensing Authority.
- 5.1.5 A private hire operator must ensure that every private hire vehicle is driven by a person who holds a private hire driver's licence.
- 5.1.6 All three licences detailed below must be issued by the same Licensing Authority:
- Private hire operator's licence;
 - Private hire driver's licence;
 - Private hire vehicle licence.
- 5.1.7 Applications for an operator's licence must be made on the prescribed form, together with the appropriate fee. The Council will then decide whether the applicant is a fit and proper person to hold an operator's licence.

5.2 Hackney Carriage

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

5.3 Disclosure and Barring Service Checks

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

5.4 Conditions

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

5.5 Record Keeping

- 5.5.1 Operators are required to keep records of each booking, including the name of the passenger, the destination, the name of the driver and the number of the vehicle. This would, for example, assist the Licensing Officer or police with any future investigations.
- 5.5.2 Operators must keep records in respect of all bookings, vehicles and drivers for a period of one year. Full details in **Appendix I**
- 5.5.3 Such records are to be made available to any authorised officer of the Council or a police officer upon request.

5.6 Insurance

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

5.7 Licence Duration

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

5.8 Address from which an Operator may operate

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

6 Fares and Fees

6.1 Hackney Carriage

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

6.2 Private Hire

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

6.3 Fees

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

Local Government (Miscellaneous Provisions) Act 1976

- 6.3.2 Section 53 of the Local Government (Miscellaneous Provisions) Act 1976 covers Drivers' licences for hackney carriage and private hire vehicles, allows fees to recover the costs of issue and administration.

Fares and Fees

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

6.4 Payments

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

6.5 Transfers, Duplicate Copies and Change of Address

- 6.5.1 A full list of fees associated with the administration and issuing of licences is available on the Council's website.
- 6.5.2 Where the holder of a driver licence, vehicle licence or operator's licence is referred to the Licensing and Appeals Committee and their licence is revoked or suspended no refund will be made.

6.6 Probationary Private Hire Drivers

- 6.6.1 Where an applicant's licence is referred to the Licensing and Appeals Committee and their application is refused, no refund will be made.
- 6.6.2 Where a Probationary Driver does not complete their six month probationary period and is required to return their badge, no refund will be made.
- 6.6.3 During the six month probationary period, if a probationary driver changes Mentor's and therefore requires a new badge to be produced, they must pay the appropriate fee

Disciplinary and Enforcement Measures

7 Disciplinary and Enforcement Measures

7.1 Enforcement

- 7.1.1 It is recognised that well-directed enforcement activity by the Authority benefits not only the public but also the responsible members of the hackney carriage and private hire trades. The DfT accepts that the resources devoted by licensing authorities to enforcement will vary according to local circumstances. They remind authorities, however, that it is desirable to ensure that hackney carriage and private hire enforcement effort is at least partly directed to the late night period, when problems such as touting tend most often to arise.
- 7.1.2 In pursuance of its objective to encourage responsible hackney carriage/private hire businesses, the Council will operate a firm but fair disciplinary and enforcement regime with a view to balancing the promotion of public safety with the need to permit individuals to safeguard their livelihood without undue interference. The Council will only intervene where it is necessary and proportionate to do so, having regard to the objectives outlined in section 2.5 of this document.
- 7.1.3 The Taxi Licensing and Enforcement Policy & Practice set out at **Appendix J** will be used to ensure that its enforcement effort is reasonable, transparent and well directed.

7.2 Disciplinary Hearings

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

7.3 Range of Powers

- 7.3.1 The Council may take any of the steps below upon receipt of evidence that an offence has been committed in relation to hackney carriage licences, private hire licences or private hire operator's licences. A breach of a condition in the Licensing Policy amounts to an offence in this context.
- Suspension of the Licence;
 - Revocation of the Licence;
 - Refusal to Renew;
 - Issuing of Warnings or Cautions;
 - Issue penalty points
 - Prosecution.

7.4 Suspension

- 7.4.1 Hackney carriage vehicles and private hire vehicles must be kept at all times in an efficient, safe, tidy and clean condition. Compliance with the vehicle specifications and conditions is essential and will be enforced by periodic, random vehicle inspections by the Council. Where it is found that any vehicle is not being properly maintained, a defect(s) notice will be served on the proprietor setting out the defect(s) and where public safety is likely to be imperilled the

Disciplinary and Enforcement Measures

further use of the vehicle will be suspended until the defects have been remedied. The suspension will then not be lifted until the vehicle has undergone a further test at the proprietor's expense and been passed as fit for use as a hackney carriage or private hire vehicle.

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

7.5 Revocation

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

7.6 Refusal to Renew

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

7.7 Issuing of Warnings and Cautions

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

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

This is more fully discussed in **Appendix J**

7.8 Penalty Points Scheme

- 7.8.1 Whilst the operation of a successful hackney carriage and private hire vehicle service is important to the economic well-being of the Borough, it is equally important that the service provided by the trade is properly regulated in order to instil confidence in the travelling public who wish to use the service.
- 7.8.2 The Council clearly has a responsibility to ensure that all drivers, owners and operators of vehicles adhere to basic minimum standards and to do this in a consistent and transparent manner. These standards are defined by legislation, licence conditions and codes adopted by the Council. Together they identify what is required of the trade and help to ensure that a consistent approach is taken by Council Officers, in their application.
- 7.8.3 A number of licensing authorities have found that an effective means of applying the conditions at a local level is through the adoption of a penalty points scheme. This scheme will be used to enforce existing legislation and any future by-laws governing Hackney Carriage Drivers. This acts as a first step in ensuring

Disciplinary and Enforcement Measures

compliance with the conditions and serves as an “early warning” system to drivers and owners or operators who see fit to ignore their responsibilities or fail to meet the requirements of the conditions.

7.8.4 Penalty points will remain on a licence for a period of two rolling years from the date on which they are imposed. If a driver accumulates twelve or more penalty points within a period of twenty four months, commencing from the date of imposition of the earliest ‘live’ penalty points, disciplinary action may be taken by either an authorised Licensing Officer or the Licensing and Appeals Panel, dependent on the category of non-compliance.

7.8.5 It is considered that the penalty points scheme assists the trade in maintaining its high standards. The Penalty Points System does not however compromise the Council’s ability to enforce breaches of statute or local conditions in the courts should an offence warrant such action. A copy of the penalty points system can be found in **Appendix G**.

7.9 Prosecution

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

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

7.10 Offences

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

- Town Police Clauses Act 1847 (hackney only);
- Local Government (Miscellaneous Provisions) 1976 (hackney and private hire);
- Transport Act 1980 (private hire only);
- Equality Act 2010
- Immigration Act 2016

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

7.11 Taxi and Private Hire Complaints Procedure

7.11.1 The Taxi and Private Hire complaints procedure is specified in **Appendix L**

Vehicle Specifications

7.12 Taxi Ranks

7.12.1 By the Borough of Tonbridge and Malling (Taxi Ranks) Regulation 2017, a number of ranks for hackney carriages have been designated within the Tonbridge and Malling Borough Council area and are sited as follows (number of spaces in brackets):

Tonbridge

Waterloo Road (21)

Botany (2)

High Street (2)

Angel Lane (2)

7.13 Bus stops and taxis in Tonbridge High Street

7.13.1 The bus stops in Tonbridge High Street, allow taxis to use the bus stops between Vale Road and the Castle “out of hours” when the buses are not in service.

The restrictions that apply are;

- Bus stop clearway between 7:30am and 11:45pm
- Taxi rank (parking place for taxis only) between 11:45pm to 7:30am next day.

West Malling

High Street (2)

Ranks not on the public highway

Station Approach Borough Green (6)

Station Approach West Malling (2)

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

7.14 Stands

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

7.15 Rights of Appeal

7.15.1 In general terms, where an applicant is aggrieved by the Council’s decision to refuse to grant, refuse to renew, suspend or revoke a licence, the applicant has a right of appeal to the local Magistrates’ Court. The specific grounds for appeal are detailed in **Appendix K**.

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

Vehicle Specifications

APPENDIX A

7.16 Hackney carriage and private hire vehicles specification and schedule of conditions

7.17 General Construction

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

7.18 Age

- 7.18.1 When first licensed, all vehicles must be less than six years old from the date of first registration.
- 7.18.2 Saloon, estate, hatchback, or multi-passenger type hackney carriages/private hire vehicles, may be licensed for a maximum of ten years from the date of first registration, subject to six-monthly testing by one of the Council's authorised garages. Each six-monthly test requires the vehicle to obtain a "Compliance Pass Certificate".
- 7.18.3 Fully Wheelchair Compliant vehicles (Mi specification with side loading for wheelchairs) may be licensed to a maximum of fifteen years from the date of first registration, subject to six-monthly testing by the Council's authorised garage. Each six-monthly test requires the vehicle to obtain a "Compliance Pass Certificate" from one of the Council's nominated garages.
- 7.18.4 Vehicles meeting this requirement may be licensed until such time as the above requirements cannot be achieved. At such a time, the vehicle will no longer be licensed. Where repair work will not be completed prior to the expiry of the previous licence, a valid renewal application and fee must have been received prior to the previous licence expiry date for this section to apply. The Authority will not renew a vehicle licence if it is more than 10 years old, at the time that it is presented for renewal, unless there are exceptional circumstances, to be decided by Committee.

7.19 Body and Vehicle Colour

- 7.19.1 The body must normally be of the fixed head type. In the case of a hackney carriage the body colour must be either wholly white or wholly silver.
- 7.19.2 Where the shade of colour is in dispute it is recommended that the advice of the authorised officer is sought before attempting to licence the vehicle.
- 7.19.3 If in the opinion of an authorised officer the colour of the vehicle is not white or silver the vehicle will not be licensed.

Vehicle Specifications

- 7.19.4 In the case of a private hire vehicle any colour is permitted.
- 7.19.5 The vehicle must not be left-hand drive. Right hand drive passenger vehicles offer the drivers clearer and safer vision in an overtaking manoeuvre, and also eliminate the need for a front seat passenger to alight from the vehicle into the road.
- 7.19.6 Passengers conveyed in the vehicle must be provided and a separate means of ingress and egress for the driver must be provided by means of a door on the offside of the vehicle
- 7.19.7 The top of the tread of the lowest step for any entrance, or where there is no step the floor level at the entrance, must not be more than 15 inches (380mm) above ground level when the vehicle is unladen.
- 7.19.8 Passengers' doors must be capable of being readily opened from inside and outside the vehicle by one operation of the latch mechanism, provided that this condition shall not prevent doors being fitted with a child safety lock.

7.20 Windows

- 7.20.1 Private hire and Hackney carriage vehicles must have at least 75 per cent of light passing through the front windscreen, 70 per cent through both front side facing windows, and 50 per cent through all other side facing windows.
- 7.20.2 Vehicles must have windows at the side and rear with ventilation being provided for passengers
- 7.20.3 Provision must be made for carrying and securing luggage and if luggage is carried or intended to be carried on the roof, a roof rack of a type or roof mounted luggage box approved by European Union must be fitted.

7.21 Steering

- 7.21.1 The steering wheel must be on the offside of the vehicle and must not be left-hand drive.

7.22 Tyres

- 7.22.1 All tyres at normal pressure under load must have a suitable minimum circumference for correct operation of the taximeter. All tyres, including the spare wheel, must be suitable for use on the vehicle and conform to the requirements of the Original Manufacturers' Specification.
- 7.22.2 Run-flat tyres are acceptable on licensed vehicles.
- 7.22.3 'Space-saver' spare tyres are acceptable on licensed vehicles if they conform to the Original Manufacturers' Specification.
- 7.22.4 If a 'space-saver' spare tyre is used on a licensed vehicle it must only be for the duration of completing the current fare and returning to a garage to obtain a

Vehicle Specifications

suitable replacement. No further fares may be taken whilst the 'space-saver' spare tyre is being used on the vehicle.

- 7.22.5 Original Manufacturers' Specification 'tyre repair kits/compressor' are permitted within licensed vehicles provided they comply with the relevant British Standards.
- 7.22.6 If a 'tyre repair kit/compressor' is used on a licensed vehicle in lieu of a spare tyre it must only be for the duration of completing the current fare and returning to a garage to obtain a suitable replacement. No further fares may be taken whilst the tyre repaired with the 'tyre repair kit /compressor' is being used on the vehicle.
- 7.22.7 In view of the high mileage covered by hackney carriage and private hire vehicles, the depth of tyre tread on all vehicles must be a minimum of 2mm.
- 7.22.8 The vehicle must be fitted with an efficient suspension system so designed and constructed that there is no excessive roll or pitch.

7.23 Fuel Tank

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

7.24 Seats

- 7.24.1 Unless the Original Manufacturers' Specification states otherwise, the front seat of the vehicle next to the driver will be regarded as a seat for one passenger only.
- 7.24.2 Passenger seats must be at least forty one centimetres wide per passenger with no significant intrusion by wheel arches, armrests or other parts of the vehicle. Measurements are to be taken laterally along the widest part of the seat.

7.25 Luggage

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

7.26 Ventilation

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

Vehicle Specifications

7.27 Fire Extinguisher

7.27.1 Preferred

7.28 First Aid Equipment

7.28.1 Preferred

7.29 Communication Devices

7.29.1 All two-way radio equipment must be of a type currently approved by Ofcom for guidance please use the following link. <https://www.ofcom.org.uk/manage-your-licence/radiocommunication-licences/business-radio/guidance-for-licensees>

7.29.2 All radio equipment fitted to the vehicle must be fitted securely and safely in accordance with guidelines set out by Ofcom.

7.29.3 Only one two-way radio may be operational in the vehicle at any one time and this shall be an approved licensed radio used exclusively for the hackney carriage or private hire vehicle.

7.29.4 The use of a Citizen Band (CB) transmitter or receiver is prohibited.

7.29.5 The use of radio-scanning devices is prohibited and such devices must not be fitted or carried in the vehicle.

7.30 Mobile Telephones

7.30.1 Mobile Telephones may only be used whilst driving if you have hands-free access, such as:

- A Bluetooth headset
- Voice command
- A dashboard holder

If you use your phone hands-free, you must stay in full control of your vehicle at all times.

7.31 Identification Plates

7.31.1 Hackney carriages and private hire vehicles are required to **permanently display** licence plates externally on the rear of the vehicle.

7.31.2 All vehicles must display a small internal plate containing the same details as the external plate. This plate can be read from both inside and outside of the vehicle and must be positioned at the top of the front nearside corner of the windscreen.

7.32 Insignia

7.32.1 Hackney carriage vehicles are required to display permanently affixed signage to the front side doors of the vehicle. This signage contains the Council logo and the words "Tonbridge & Malling Borough Council" and "TAXI" and shows the plate number.

Vehicle Specifications

7.32.2 Private Hire Vehicles required to display permanently affixed signage to the front side doors of the vehicle showing the plate number.

7.32.3 Plate Exempt Private Hire vehicles, Limousines and Special Events Vehicle will be exempt from displaying door insignia.

7.33 Fittings

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

7.34 Seat Belts

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

7.35 Alteration of Vehicle

7.35.1 No material alteration or change in the specification, design, condition or appearance of any vehicle shall be made without the approval of the Council at any time while a licence is in force in respect of that vehicle.

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

7.36 Maintenance and Condition of the Vehicle

7.36.1 The exterior of all licensed vehicles shall be maintained in a clean, safe and proper manner at all times. In particular, the exterior of the vehicle shall:

- be free of large and/or sharp-edged dents;
- be free of visible rust;
- be free of unrepaired accident damage;
- have uniform paintwork equivalent to that applied by the manufacturer; and
- be maintained in an acceptable state of cleanliness, (discretion may be given during periods of adverse weather).

7.36.2 The interior of all licensed vehicles shall be maintained in a clean, safe and proper manner at all times. In particular, the interior of the vehicle shall:

- be free of all stains to the upholstery;
- be free of all splits and tears to the seats;
- be maintained in an acceptable state of cleanliness; and
- provide seats functioning in accordance with the Original Manufacturers' Specification.

Vehicle Specifications

- 7.36.3 For the avoidance of doubt, any vehicle that would not pass an Engineer's Report or MOT must not be used until such time as the requirements of the Engineer's Report and MOT can be met.
- 7.36.4 All licensed vehicles shall be liable to be randomly inspected and tested by an Authorised Council Officer or the Police. If it is discovered during an inspection that a vehicle is not being properly maintained, an Improvement Notice may be served on the owner under Section 68 of the Local Government (Miscellaneous Provisions) Act 1976. This notice will specify the defects and the action required to remedy the problem.
- 7.36.5 Failure to comply with the requirements of an Improvement Notice will be considered a serious breach of licensing requirements and dealt with accordingly. If the requirements of an Improvement Notice are not rectified within two months, the vehicle licence can be revoked in accordance with Section 68 of the Local Government (Miscellaneous Provisions) Act 1976.
- 7.36.6 Vehicles must have no damage affecting the structural safety of the vehicle and must not have been written off for insurances purposes at any time.

7.37 Smoking

- 7.37.1 It is the responsibility of both the driver and the proprietor to ensure no smoking signage, as prescribed by the Health Act 2006, is displayed in all licensed hackney carriages or private hire vehicles at all times
- 7.37.2 No smoking or the use of E-Cigarettes and Vaping devices is permitted in licensed vehicles by Passengers or Drivers.

7.38 Disability Access

- 7.38.1 Where a vehicle is utilised for the carriage of wheelchair users, the following conditions shall apply:
- Access to and exit from the wheelchair position must not be obstructed in any manner at any time except by wheelchair loading apparatus;
 - Wheelchair internal anchorage must be of the manufacturer's design and construction and secured in such a position as to not obstruct any emergency exit;
 - A suitable restraint must be available for the occupant of a wheelchair;
 - Access ramps or lifts to the vehicle must be securely fixed prior to use, and be able to support the wheelchair, occupant and helper; and
 - Ramps and lifts must be securely stored in the vehicle before it may move off.
- 7.38.2 Any equipment fitted to the vehicle for the purpose of lifting a wheelchair into the vehicle must have been tested in accordance with the requirements of the Lifting Operations and Lifting Equipment Regulations 1998 (S.I. 1998/2307). A current LOLER certificate must be issued and produced to the Licensing authority before

Vehicle Specifications

a licence is issued. Any such equipment must be maintained in good working order and be available for use at all times.

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

7.39 Assistance Dogs

- 7.39.1 Under the Equality Act 2010, licensed drivers of taxis and private hire vehicles are under a duty to carry passengers with guide, hearing and other assistance dogs without additional charge.

When carrying such passengers, drivers have a duty to:

- Convey the disabled passenger's dog and allow it to remain under the physical control of the owner; and
- Not to make any additional charge for doing so.

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

- 7.39.3 Any other driver who fails to comply with the duty is guilty if a criminal offence and liable, on summary conviction, to a fine of up to £1,000.

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

7.40 Taximeters – Hackney Carriage Vehicles

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

- 7.40.2 All taximeters must be fitted by an approved agent of the taximeter manufacturer, accompanied by a calibration certificate, and also that the taximeter used must be certified / type approved under EU Directive '**2014/32/EU**' (measuring instruments)

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

Vehicle Specifications

- 7.40.4 The vehicle taximeter shall be brought into operation at the commencement of a journey. When the meter is operating, there shall be recorded on the face of the meter in clearly legible figures, a fare not exceeding the maximum fare that may be charged for that journey
- 7.40.5 An official copy of the Council's fare tariff shall be clearly displayed in the vehicles so as to be plainly visible to passengers carried therein.
- 7.40.6 In the event of a journey commencing in but ending outside the area covered by Tonbridge and Malling Borough Council, there may be charged for the journey, such fare as was agreed before the hiring was effected. If no such agreement was made then the fare to be charged should be no greater than that fixed by the Council in connection with the fare tariff for the hire of hackney carriages.

7.41 Taximeters – Private Hire Vehicles

- 7.41.1 Private hire vehicles are not required to be fitted with a taximeter.

7.42 Roof Sign – Hackney Carriage Vehicle

- 7.42.1 Hackney carriage vehicles, other than those with built-in roof signs, must be fitted with a **white** or **silver** illuminated external sign on the roof of the vehicle. The sign must display either:
- the word "TAXI; or
 - the name and telephone number of the hackney carriage company; or
 - the words "FOR HIRE; or
 - a combination of the above
- 7.42.2 The roof sign and lettering shall be of an appropriate size to enable it to be clearly identifiable to the public.
- 7.42.3 The illuminated external roof sign, including built-in roof signs, must be switched off when the vehicle has been hired and illuminated when available for hire.
- 7.42.4 The roof sign, other than those built-in to the vehicle, must be mounted on the roof and be adequately secured.
- 7.42.5 An additional internal illuminated "FOR HIRE" sign may be fitted in licensed hackney carriages, in a position approved by the Council. The sign's illumination must be switched off when the vehicle has been hired.

Stretch Limousine Vehicles and Special Event Vehicles

8 APPENDIX B

8.1 ADDITIONAL CONDITIONS FOR PRIVATE HIRE LIMOUSINES AND SPECIAL EVENTS VEHICLES

8.2 Stretched Limousines

8.3 Definition

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

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

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

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

8.4 Licensing Conditions

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

8.5 Left-Hand Drive

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

8.6 Seating

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

8.7 Roadworthiness

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

8.8 Insurance

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

Stretch Limousine Vehicles and Special Event Vehicles

8.9 Tyres

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

8.10 Vehicle Testing

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

8.11 Carrying of Passengers

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

8.12 Advertising

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

8.13 Seat Belts

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

8.14 Provision of Alcohol

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

Stretch Limousine Vehicles and Special Event Vehicles

8.15 Provision of Entertainment

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

8.16 Luggage

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

8.17 Safety Hammer

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

8.18 Driver and Operator Licensing Requirements

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

8.19 Vehicle Testing Stations

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

8.20 Special Events Vehicles

- 8.20.1 Unless specifically stated otherwise below, all requirements relating to the licensing of private hire vehicles apply to Special Events Vehicles. The

Stretch Limousine Vehicles and Special Event Vehicles

requirements below are additional requirements specifically for Special Events Vehicles licensed as private hire vehicles.

8.20.2 For the purposes of this Policy, a Special Events Vehicle is defined as follows:

- Decommissioned emergency service vehicles
- Vintage and luxury vehicles (where the normal private hire vehicle age limits would exclude them)
- Other non-standard type converted vehicles used for special events.

8.20.3 The ability to licence a vehicle as a Special Events Vehicle will be restricted to those defined in 10.19.2. Mass produced saloon cars or wheelchair accessible vehicles will be required to be licensed under the normal Hackney Carriage and Private Hire requirements.

8.21 Age of the vehicle

8.21.1 All vehicles licensed for the first time must be no more than six years old from the date of first registration. This is not the requirement for Special Event Vehicles. There will be no maximum age as with stretched limousines however the vehicles must remain in good condition and pass regular compliance tests.

8.21.2 Vehicles will be inspected by an authorised officer before a licence is granted and thereafter annually at the point of renewal. Special Events Vehicles will also be required to complete six monthly MOT and Compliance Tests in the same way a standard Hackney Carriage or Private Hire vehicle must.

8.22 Vehicle Standards

8.22.1 The vehicle must be clean and well maintained. There should be no rust on the bodywork and paint and chrome areas must be in good condition.

8.22.2 Left hand drive vehicles will be permitted,

8.22.3 All vehicles licensed as private hire vehicles must reduce their seating capacity to a maximum of eight passengers.

8.22.4 The vehicle must not carry more than eight passengers at any time. For the purpose of counting passengers, a child of any age will be classed as a passenger.

8.22.5 An authorised officer will certify the vehicle for the carriage of an appropriate number of passengers and no passengers over that number should be carried. In addition, no more than eight passengers should be carried.

8.22.6 The fitting of a taxi meter in a Special Events Vehicle is prohibited.

8.23 Special Events Vehicle Conditions

8.23.1 Any vehicle licensed, regardless of age must be presented for an MOT and Compliance at a nominated garage every six months.

Stretch Limousine Vehicles and Special Event Vehicles

- 8.23.2 If a Special Events Vehicle cannot be MOT tested at a nominated garage due to its size or the unusual nature of the vehicle, the MOT can be carried out where possible with authorisation of an authorised officer and then the compliance test can be carried out at a nominated garage.
- 8.23.3 The vehicle shall be maintained in a sound mechanical and structural condition at all times.
- 8.23.4 The vehicle must remain in an excellent visual standard, this includes the quality of the paintwork, physical condition including doors, all body panels, bumpers and interior floors. These areas must remain in a good condition, free from rust, holes, broken metal and any other visible damage.
- 8.23.5 The interior of the vehicle should be kept to the highest standard possible. It must be clean and free from any tears, damage or dirt.
- 8.23.6 All special events vehicles licensed as private hire vehicles must have appropriate insurance to cover the provision of a service to the public for hire and reward, taking into account the specification of the vehicle.
- 8.23.7 In any advertisement publicising a limousine service, the advertisement must state that the vehicle is only licensed to carry eight passengers.
- 8.23.8 Alcoholic drinks may only be provided in the vehicle when the vehicle is complying with all relevant requirements of the Licensing Act 2003. Alcohol shall only be served whilst the vehicle is stationary. Whilst the vehicle is in motion, all receptacles containing alcohol shall be securely stored.
- 8.23.9 A proprietor offering Special Events Vehicles licensed as private hire vehicles in Tonbridge and Malling Borough Council must hold a private hire operators' licence with The Council.

8.24 Limitations of Use

- 8.24.1 Vehicles issued with a Special Events licence must only be used for special occasions and executive business contracts. Vehicles licensed under the Special Events Vehicle category must not be used for everyday Private Hire work.
- 8.24.2 Records of all work undertaken by a Special Events Vehicle must be recorded on the Private hire Operators Licence.
- 8.24.3 Special Events Vehicles will be exempt from the requirements to display licence plates and "Pre-booked only" door stickers. It is still a requirement for exempt vehicles to carry the licence plate in the boot of the vehicle at all times.
- 8.24.4 Drivers of Special Events Vehicle are required to observe a formal dress code or appropriate attire for the nature of the vehicle.
- 8.24.5 A licence for a Special Events Vehicle maybe suspended, revoked or not renewed if the vehicle is no longer considered, in the opinion of an authorised

Stretch Limousine Vehicles and Special Event Vehicles

officer, to comply with these requirements and all of the criteria set out in these conditions.

- 8.24.6 Once licensed by Tonbridge and Malling Borough Council as a private hire vehicle the Special Events Vehicle can only be driven by a private hire driver licensed by the Council. This applies at all times whilst the vehicle holds a private hire vehicle licence.

Application procedure - Vehicles

9 APPENDIX C

9.1 VEHICLES

9.2 New licences and renewal licences

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

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

9.2.2 The following documents must also be produced:-

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

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

9.2.3 The relevant fee must also be paid.

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

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

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

9.3 Replacement Vehicle - existing hackney carriage or private hire vehicle

9.3.1 If, during the term of the vehicle licence, it becomes necessary to replace the existing vehicle with another, for example in the case of an accident, all of the supporting documents as detailed above must be submitted. A test voucher will

Application procedure - Vehicles

then be issued and following a successful pass, a temporary licence plate will be issued.

- 9.3.2 When processing applications for replacement plates the licensing team will endeavour to provide a fast turnaround provided all the documentation submitted is valid and the appropriate fee is paid.
- 9.3.3 There will an administration fee charged for this process which takes into account the supply of a new vehicle plate.
- 9.3.4 This service will only be undertaken through an approved replacement vehicle company specified by the proprietor's insurance company.

9.4 Transfer of an existing hackney carriage or private hire vehicle

- 9.4.1 Documentation as described above must be provided and must be submitted in sufficient time to take into account that a minimum of one week is required before the appropriate licence can be issued.
- 9.4.2 A fee will be charged for this application.

Application procedure - Driver

9.5 Driver's application

9.5.1 An applicant will need to complete an application form for the following:-

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

9.5.2 All applicants must have held a full driving licence or equivalent for a minimum period of one year prior to the date of making an application.

9.6 New Drivers

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

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

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

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

- **A Driving test pass certificate (for taxi drivers)** for hackney carriage and private hire drivers.
- **A medical certificate**, obtained from the Council's medical provider or the applicant's own GP, indicating that the applicant is physically fit and able to fulfil the role, to DVLA Vocational Group 2 Standards.
- **A completed application form for an Enhanced Disclosure and Barring Service Check**. All overseas applicants who have resided in this country for less than three years must obtain a Certificate of Good Conduct from their relevant embassy or consulate, at the applicant's expense, authenticated, translated and sealed by the embassy or consulate.
- **A Form permitting work in the UK** - Any foreign national will be required to give details of any residency outside the UK and sign a declaration that they are permitted to work in the UK. Applicants must also provide a document to evidence that they are permitted to work in the UK. **A Home Office check will be carried out if an authorised officer deems it necessary under the Immigration Act 2016.**

Application procedure - Driver

- **DVLA Share your Driving Licence Information Code** – this enables the Council to view an applicant's driving licence on the gov.uk website.
- **Knowledge Test** - New applicants will also be required to pass a Geographical/topographical examination of the Borough, known as the knowledge test. Details of this test are contained in **Appendix E** to this policy.

NB: The guidance shown above may be reviewed subject to the UK current Brexit negotiations.

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

9.7 Drivers renewing licences

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

- **Full UK (or equivalent EU) Drivers licence**
- **A medical certificate**, obtained from the Council's medical provider or the applicant's own GP, indicating that the applicant is physically fit and able to fulfil the role, to DVLA Vocational Group 2 Standards. Medicals must be completed prior to completion of the renewal. Renewed Badges will not be issued before the Medical is completed.
- **A completed DBS form** for an Enhanced Disclosure and Barring Services (DBS) Check.
- **DVLA Share your Driving Licence Information Code** – this enables the Council to view an applicant's driving licence on the gov.uk website.
- **A Form permitting work in the UK** - Any foreign national will be required to give details of any residency outside the UK and sign a declaration that they are permitted to work in the UK. Applicants must also provide a document to evidence that they are permitted to work in the UK. A Home Office check will be carried out if an authorised officer deems it necessary under the Immigration Act 2016.

NB: The guidance shown above may be reviewed subject to the UK current Brexit negotiations.

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

Application procedure - Driver

9.7.3 A copy of the drivers paper licence can be stored onto electronic devices (PDA's) rather than in paper format in the licensed vehicle.

9.8 Private Hire Operators

9.8.1 The following documentation must be provided before an operator's licence will be issued, which will be photocopied and originals returned to applicant:

- Application form
- Proof of public liability insurance for the premises to be licensed if the public have access
- The appropriate fee
- A list of vehicles that will be recorded on the Operator's Licence
- A list of Drivers working for the Operator

9.9 Applications general

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

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

9.9.3 In both cases, the DBS check will be applied for before any further consideration of the application.

9.9.4 When the DBS check has been returned, the application will be considered in the light of the information provided. It is therefore necessary to ensure that details of ALL convictions and cautions are provided at the initial stage. A serious view will be taken of any application which seeks to conceal any caution or conviction in order to obtain a Licence. This will lead to automatic referral to the Licensing & Appeals Panel for consideration as to whether the applicant is a 'fit and proper person'. Applications will normally be refused where an applicant has sought to conceal information on their application form.

9.9.5 Any information relating to criminal background will only be kept as long as it is necessary for assessment purposes.

9.9.6 In the event of an application being refused the applicant has the right of appeal to Magistrates' Court, such appeal to be lodged within 21 days of the decision being notified.

9.9.7 **Where an application for a licence is refused (either a new application or a renewal), or a licence is revoked, a further application from the applicant/licence holder will not normally be considered for a period of two years from the date of refusal or revocation as the case may be. If the licence was refused/revoked due to relevant information on a DBS certificate/or result**

Application procedure - Driver

of a DVLA check, then an application will not be accepted until the relevant time period has elapsed as each offence carries a different time period where an application would be accepted.

10 APPENDIX D

10.1 GUIDELINES RELATING TO THE RELEVANCE OF PREVIOUS CONVICTIONS

10.2 General Policy

- 10.2.1 Each case will be decided on its own merits.
- 10.2.2 The overriding consideration is the safety of the public. The Council has a duty to ensure so far as possible that those licensed to operate private hire vehicles or to drive hackney carriage and private hire vehicles are suitable persons to do so, that they are safe drivers with good driving records and adequate experience, sober, courteous, mentally and physically fit, honest and not persons who would take advantage of their employment to abuse or assault passengers.
- 10.2.3 A person with a current conviction for a serious crime need not be permanently barred from obtaining a licence but should be expected to (a) remain free of conviction for an appropriate period and (b) show adequate evidence of good character from the time of the conviction. Simply remaining free of conviction will not generally be regarded as sufficient evidence of good character.
- 10.2.4 Where a person has been arrested and charged with an offence relating to traffic offences, drink/drug driving, violent or safeguarding offences there is a requirement to inform the licensing team within 72 hours of arrest
- 10.2.5 Some discretion may be appropriate if the offence is isolated and there are mitigating circumstances. Similarly, multiple offences or a series of offences over a period of time are likely to give greater cause for concern and may demonstrate a pattern of inappropriate behaviour which will be taken into account.
- 10.2.6 An admission of guilt is required before a caution can be issued by the police. Although the Local Authority recognises that cautions are deemed to be a lower level offence these are still taken into consideration when determining an application.
- 10.2.7 For the purpose of these guidelines formal cautions and endorsed fixed penalties shall be treated as though they were convictions and must be disclosed.
- 10.2.8 The following examples afford a general guide on the action which might be taken where convictions are disclosed and the lists provided are not exhaustive.

10.3 Offences of Dishonesty

- 10.3.1 Drivers of hackney carriage and private hire vehicles are expected to be persons of trust. It is comparatively easy for a dishonest driver to defraud the public by demanding more than the legal fare and in other ways.
- 10.3.2 Members of the public entrust themselves to the care of drivers both for their own safety and for fair dealing. Passengers may comprise especially of vulnerable people.

Previous Convictions

10.3.3 For these reasons a serious view is taken of any convictions involving dishonesty. In general, a period of 4 years free of conviction will be required before an application is likely to be considered.

10.3.4 In particular, an application will normally be refused where the applicant has a conviction for an offence of:-

Theft	Theft Act 1968 Section 7
Burglary	Theft Act 1968 Section 9
Fraud	Fraud Act 2006 Section 1
Benefit fraud	Social Security Administration Act 1992
Handling or receiving stolen goods	Theft Act 1968 Section 22
Forgery	Forgery Counterfeiting Act 1981
Conspiracy to defraud	Common Law Offence
Obtaining money or property by deception	Fraud Act 2006 Section 5
Any other offence involving dishonestly	Dependent on offence
And the conviction is less than 4 years prior to the date of the application.	

Previous Convictions

10.4 Violence

- 10.4.1 As hackney carriage and private hire drivers maintain close contact with the public, in general a period up to 10 years free of conviction for offences involving violence (depending on the nature and seriousness of the offence) will be required before an application is likely to be considered favourably.
- 10.4.2 An application will normally be refused where the applicant has a conviction for an offence of:-

Murder	Common Law Offence
Manslaughter	Common Law Offence
Malicious wounding or grievous bodily harm	Offences Against the Persons Act 1861 Sections 18-20
Grievous bodily harm with intent	Offences Against the Persons Act 1861 Sections 18-20
Actual bodily harm	Offences Against the Persons Act 1861 Section 47
And the conviction is less than 10 years prior to the date of application.	

- 10.4.3 An application will normally be refused where the applicant has a conviction for an offence of:-

Criminal damage	Crime and Disorder Act 1998
Racially-aggravated criminal damage	Crime and Disorder Act 1998 Section 30
Harassment/ - alarm distress (Public Order Act 1986)	Public Order Act 1986
And the conviction is less than 8 years prior to the date of application.	

Previous Convictions

10.4.4 An application will normally be refused where the applicant has a conviction for an offence of:-

Common assault	Criminal Justice Act 1988
Assault occasioning actual bodily harm	Crime and Disorder Act 1998 Section 30
Harassment/ - alarm distress	Public Order Act 1986
Assault on a police officer	Police Act 1996 Section 89(1)
Affray	Public Order Act 1986 Section 3
Riot	Public Order Act 1986 Section 1
Obstruction	Summary Offences Act 1981 Section 22
Possession of offensive weapon	Prevention of Crime Act 1953 Section 1A
Possession of firearm	Firearms Act 1968 Section 5
Violent disorder	Public Order Act 1986 Section 2
Resisting arrest	Police Act 1996 Section 89(1)
And the conviction is less than 8 years prior to the date of application.	

10.5 Drugs

10.5.1 An application will normally be refused where the applicant has a conviction for an offence of:-

- Driving whilst under the influence of drugs
- Dealing drugs
- Possessing drugs

And the conviction is less than 5 years prior to the date of application.

Previous Convictions

10.5.2 In addition applicants will normally be required to show a period of at least 5 years free from taking drugs and/or 5 years after detoxification treatment if (s)he was an addict.

10.6 Drunkenness not in a motor vehicle

10.6.1 An isolated conviction for drunkenness need not debar an applicant from gaining a licence. In some cases, a warning may be appropriate. However, a number of convictions for drunkenness could indicate a medical problem necessitating critical examination and refusal of a licence.

10.6.2 In addition, applicants will normally be required to show a period of at least 5 years has elapsed after completion of detoxification treatment if (s)he was an alcoholic.

10.7 Indecency Offences

10.7.1 As hackney carriage and private hire drivers often carry unaccompanied passengers, applicants with convictions for soliciting, importuning, indecent exposure or any sexual offence will normally be refused a licence until they can show a substantial period (10 years) free from any such conviction.

10.7.2 In particular, an application will normally be refused where the applicant has a current conviction for an offence of:-

Rape	Sexual Offences Act 2003 Section 1
Sexual assault	Sexual Offences Act 2003 Section 3
Gross indecency with a female	Sexual Offences Act 1956 Section 14
Gross indecency with a male	Sexual Offences Act 1956 Section 15
Child sex offences	Sexual Offences Act 2003 Sections 9 – 13.
Buggery	Sexual Offences Act 1956 Section 12
Persistently soliciting a woman for prostitution	Sexual Offences Act 2003 Section 51A
Is on the sex offenders register	Sexual Offences Act 2003
And the conviction is less than 10 years prior to the date of the application.	

Previous Convictions

10.8 Motoring Convictions

10.8.1 Major Traffic Offences

10.8.2 An isolated conviction, without disqualification, for an offence such as dangerous driving or driving without due care and attention will require careful consideration of the facts and will at the very least merit a warning as to future driving and advice on the standard expected of hackney carriage and private hire vehicle drivers. However, where the conviction is within 6 months prior to the date of the application the application will normally be refused.

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

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

MAJOR TRAFFIC OFFENCES

Offence code	Description of offence
AC10	Failing to stop after an accident
AC20	Failing to give particulars or to report an accident within 24 hours
AC30	Undefined accident offences
BA10	Driving while disqualified by order of court
BA20	Attempting to drive while disqualified by order of court
CD10	Driving without due care and attention
CD20	Driving without reasonable consideration for other road users
CD30	Driving without due care and attention or without reasonable consideration for other road users
CD40	Causing death through careless driving when unfit through drink
CD50	Causing death by careless driving when unfit through drugs
CD60	Causing death by careless driving with alcohol level above the limit
CD70	Causing death by careless driving then failing to supply a specimen for analysis
DD40	Dangerous driving
DD60	Manslaughter or culpable homicide while driving a vehicle
DD80	Causing death by dangerous driving

Previous Convictions

Offence code	Description of offence
DD90	Furious driving
DR10	Driving or attempting to drive with alcohol level above limit
DR20	Driving or attempting to drive while unfit through drink
DR30	Driving or attempting to drive then failing to supply a specimen for analysis
DR40	In charge of a vehicle while alcohol level above limit
DR50	In charge of a vehicle while unfit through drink
DR60	Failure to provide a specimen for analysis in circumstances other than driving or attempting to drive
DR70	Failing to provide specimen for breath test
DR80	Driving or attempting to drive when unfit through drugs
DR90	In charge of a vehicle when unfit through drugs
DG10	Driving or attempting to drive with drug level above the specified limit
DG 60	Causing death by careless driving with drug level above the limit
IN 10	Using a vehicle uninsured against third party risks
LC20	Driving otherwise than in accordance with a licence
LC30	Driving after making a false declaration about fitness when applying for a licence
LC40	Driving a vehicle having failed to notify a disability
LC50	Driving after a licence has been revoked or refused on medical grounds
MS50	Motor racing on the highway
MS60	Offences not covered by other codes
UT50	Aggravated taking of a vehicle

Aiding, abetting, counselling or procuring

Offences as coded above, but with 0 changed to 2 (e.g. IN10 becomes IN12)

Causing or permitting

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

Inciting

Offences as coded above, but with 0 changed to 6 (e.g. IN10 becomes IN16)

Previous Convictions

10.9 Drunkenness involving a motor vehicle

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

10.10 Minor Traffic Offences

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

MINOR TRAFFIC OFFENCES

Offence code	Description of offence
MS60	Leaving a vehicle in a dangerous position
MS20	Unlawful pillion riding
MS30	Play street Offences
MS40	Driving with uncorrected defective eyesight or refusing to submit to a test
MS70	Driving with uncorrected defective eyesight
MS80	Refusing to submit to an eyesight test
MS90	Failure to give information as to identity of driver, etc.
MW10	Contravention of Special Road Regulations (excluding speed limits)

Previous Convictions

Offence code	Description of offence
PC10	Undefined contravention of Pedestrian Crossing Regulations
PC20	Contravention of Pedestrian Crossing Regulations with moving vehicle
PC30	Contravention of Pedestrian Crossing Regulations with stationary vehicle
TS10	Failing to comply with traffic light signals
TS20	Failing to comply with double white lines
TS30	Failing to comply with a "Stop" sign
TS40	Failing to comply with direction of a constable or traffic warden
TS50	Failing to comply with traffic sign (excluding "Stop" sign, traffic lights or double white lines)
TS60	Failing to comply with school crossing patrol sign
TS70	Undefined failure to comply with a traffic direction sign

Aiding, abetting, counselling or procuring

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

Causing or permitting

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

Inciting

Offences as coded above, but with 0 changed to 6 (e.g. PC10 becomes PC16)

Previous Convictions

10.11 Hybrid Traffic Offences

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

Offence code	Description of offence
CU10	Using vehicle with defective brakes
CU20	Causing or likely to cause danger by reason of use of unsuitable vehicle or using a vehicle with parts or accessories (excluding brakes, steering or tyres) in a dangerous condition
CU30	Using a vehicle with defective tyre(s)
Offence code	Description of offence
CU40	Using a vehicle with defective steering
CU40	Using a vehicle with defective steering
CU50	Causing or likely to cause danger by reason of load or passengers
CU80	Breach of requirements as to control of the vehicle, mobile telephone etc.
SP10	Exceeding goods vehicle speed limit
SP20	Exceeding speed limit for type of vehicle (excluding goods or passenger vehicles)
SP30	Exceeding statutory speed limit on a public road
SP40	Exceeding passenger vehicle speed limit
SP50	Exceeding speed limit on a motorway
SP60	Undefined speed limit offence

Aiding, abetting, counselling or procuring

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

Causing or permitting

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

Inciting

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

Previous Convictions

10.12 Motoring Convictions Offences Table

Traffic Offences	Comment	Attendance at a Hearing
Minor	Up to and including 9 points on your licence	Licensing Officer discretion
Major	Up to and including 6 points on your licence	Licensing Officer discretion (depending on the offence)
	Over 6 points on your licence	You will be required to attend a Hearing
Hybrid	Up to and including 6 points on your licence	Licensing Officer discretion (depending on the offence)
	Over 6 points on your licence	You will be required to attend a Hearing
Speeding Offences	SP (Speeding offences) - Up to and including 9 points on your licence	Licensing Officer discretion
	SP (Speeding offences) - Over 9 points on your licence	You will be required to attend a Hearing

10.13 Disqualification

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

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

- 10.14.1 One of the main purposes of the licensing regime set out in the Town Police Clauses Acts and Part II of the Local Government (Miscellaneous Provisions) Act 1976 ("the Acts") is to ensure the protection of the public. For this reason a

Previous Convictions

serious view is taken of convictions for offences under the Acts (including illegally plying for hire) when deciding whether an applicant is to be treated as a fit and proper person to hold a licence.

10.14.2 In particular, an applicant will normally be refused a licence where (s)he has been convicted of an offence under the Acts at any time during the 6 months preceding the application or has more than one conviction within the last 2 years preceding the date of the application.

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

10.15.1 Under the 1974 Act, criminal convictions can become spent after a certain period of time, and once spent, for many purposes, can be disregarded completely.

10.15.2 The possibility of rehabilitation and the length of time before rehabilitation occurs is dependent on the sentence imposed, and not the offence committed.

10.15.3 Where a person is sentenced to imprisonment for a period exceeding thirty months, the conviction can never be spent.

10.15.4 Despite the above, the principles of the Act do not apply to applicants for hackney carriage and private hire drivers' licences. This is because the driving of these vehicles is listed as a 'Regulated Occupation' in relation to which questions may be asked as to the suitability of individuals to be granted a licence.

10.15.5 Although the Act does not prevent any judicial authorities, including the Licensing Authority, from taking spent convictions into account, such convictions are only admissible in so far as they are relevant to the issue as to whether the applicant is a 'fit and proper person' to hold a licence.

10.15.6 The determination as to whether certain convictions are spent, therefore, may be a relevant exercise.

10.15.7 The rehabilitation periods to which reference is most commonly made are set out below. For further details on the periods of rehabilitation applicable to all sentencing options, reference will need to be made to a specialist textbook on the Act

Sentence	Rehabilitation Period
Sentence of imprisonment or detention exceeding six months but not exceeding thirty months	Four years
Sentence of cashiering, discharge with ignominy or dismissal with disgrace from Her Majesty's Service	One year
Sentence of imprisonment not exceeding six months	Two years
Sentence of dismissal from Her Majesty's Service	One year

Previous Convictions

Sentence	Rehabilitation Period
Sentence of detention in respect of a convictions in services disciplinary proceedings	One year
A fine, compensation, probation, community service or combination order	One year
Absolute discharge	Six months
Conditional discharge	Last day on which the order is to have effect.
Action plan, curfew, drug treatment and testing order, or reparation order	Last day on which the order is to have effect.

Driver Knowledge Tests

11 APPENDIX E

11.1 DRIVER KNOWLEDGE TESTS

11.2 Introduction

- 11.2.1 All new applicants for either a private hire or hackney drivers badge will need to take a written knowledge test.
- 11.2.2 Applicants wishing to sit the Knowledge Test should email the Licensing Team expressing their wish to sit the test.
- 11.2.3 Revision Material will be supplied, by email, before the test takes place. This will include the Knowledge Test booklet and a copy of the current hackney carriage and private hire licensing policy. When marking Section One for the Routes, we will use Google Maps.
- 11.2.4 Candidates will need to pay the required fee and complete a booking form before sitting the knowledge test.
- 11.2.5 All elements of the test must achieve the required pass mark. The required pass mark for the routes is 80%, with all successful candidates achieving an overall pass mark of 70%.
- 11.2.6 A candidate can retake the Test until they reach the required pass mark as long as the required fee is paid for each resit.
- 11.2.7 Knowledge Test will be held a minimum of three times per year.
- 11.2.8 If an authorised officer has reason to believe that a candidate is cheating or has cheated, they will be disqualified from the test and another application will not be accepted for a period of one year.
- 11.2.9 Candidates may not use any device to assist them in the Knowledge Test; this includes but is not exclusive to – Mobile Phones, Satellite Navigation devices and copies of Maps.
- 11.2.10 Tests will be marked within 7 days and applicants will be informed of the result by email.
- 11.2.11 Authorised officers will not enter into any discussion regarding the outcome of the test and any queries or questions should be sent by email to the Licensing Team.

Driver Knowledge Tests

11.3 The Knowledge Test

11.3.1 The test will consist of six sections;

Section One	Routes	30 Multiple Choice Questions
Section Two	Places	20 Questions
Section Three	Locate Towns & Villages on a Map	10 Questions
Section Four	General Choice questions about topics you would encounter as a Taxi Driver	10 Questions
Section Five	Maths & English	10 Questions
Section Six	Current Policy	20 Questions

11.3.2 The Tonbridge & Malling Knowledge Test is subject to change without prior notice. However all those candidates that are waiting to sit the test will be supplied with an updated Knowledge Test booklet prior to the test they have been allocated a place on.

Private Hire Drivers Conditions

12 APPENDIX F

12.1 PRIVATE HIRE DRIVER'S LICENCE CONDITIONS

12.2 Conduct of Driver

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

Private Hire Drivers Conditions

- 12.2.13 The vehicle shall be presented in a clean and tidy condition for each journey.
- 12.2.14 The private hire vehicle must only be driven with the consent of the proprietor of the vehicle.
- 12.2.15 The driver must not drink or eat in the vehicle whilst in the presence of customers.
- 12.2.16 The driver must comply with any hirer's request not to play any radio or sound equipment which is not connected with the operation of the business.
- 12.2.17 The driver must ensure that the noise emitted from any sound equipment in the vehicle does not cause annoyance to any persons, whether inside or outside the vehicle.
- 12.2.18 The driver shall not operate the horn late at night as a means of signalling that the vehicle has arrived.
- 12.2.19 The driver must not cause or permit the vehicle to stand on a public road, on a hackney carriage rank, or in a public place so as to suggest that it is plying for, or available for, hire.
- 12.2.20 It is illegal to use a hand held mobile phone while driving since December 2003. From March 2017 the Fixed Penalty Notice for using a handheld mobile phone while driving is £200 and 6 points.
- 12.2.21 Drivers must not use a mobile phone whilst driving unless it is designed for hand-free operation.
- 12.2.22 Any change affecting the licence must be notified in writing to the Council. Notification should be as soon as reasonably practicable and in any event, no later than seven days after the change was effected.
- 12.2.23 If the driver is convicted or bound over for any offence, he shall within 7 days give details in writing of the conviction or binding over to the Council.
- 12.2.24 The private hire driver's licence must be made available for inspection, upon request, by any authorised officer of the Council or any police officer.
- 12.2.25 The driver must notify the Council within seven days of starting or terminating employment, as to the name and address of the proprietor concerned and the date when the employment either started or ended.
- 12.2.26 The private hire driver's licence must be presented to the proprietor concerned at the beginning of the employment.
- 12.2.27 In accordance with section 50(3) of the Local Government (Miscellaneous Provisions) act 1976, any accident to a private hire vehicle causing damage materially affecting:
- The safety, performance or appearance of the vehicle
 - The comfort or convenience of the passengers

Private Hire Drivers Conditions

must be reported to the Council as soon as reasonably practicable, and in any case within 72 hours of the accident.

12.3 Assistance Dogs

- 12.3.1 Under the Equality Act 2010, licensed drivers of taxis and private hire vehicles are under a duty to carry passengers with guide, hearing and other assistance dogs without additional charge.
- 12.3.2 When carrying such passengers, drivers have a duty to:
- Convey the disabled passenger's dog and allow it to remain under the physical control of the owner; and
 - Not to make any additional charge for doing so.
- 12.3.3 Drivers who, for medical reasons are unable to accept wheelchair users or assistance dogs are able to apply to the Council for an exemption certificate. Such a certificate will only be issued on production of medical evidence. Exemption certificates, which show the photograph of the driver, must be displayed in the vehicle at all times the driver is working.

12.4 Medical Fitness of Driver

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

12.5 Fares and Journeys

- 12.5.1 The driver/operator of a private hire vehicle may make their own agreement with the hirer as to the fare for a particular journey.
- 12.5.2 The driver shall, if requested by the hirer, provide him with a written receipt for the fare paid.
- 12.5.3 If the vehicle is fitted with a taximeter, then the driver of a private hire vehicle must:
- Unless the hirer expresses at the commencement of the journey his desire to engage by time, bring the meter into operation at the commencement of the journey, and bring the machinery of the taxi-meter into action by moving the said key, flag or other device, before beginning a journey and keep the machinery of the taxi-meter in action until the termination of the hiring.

Private Hire Drivers Conditions

- When standing (stationery), keep the key, flag or other device fitted for that purpose locked in the position in which no fare is recorded on the face of the meter. The meter must not show a fare until the journey commences.
- Cause the dial of the taxi-meter to be kept properly illuminated throughout any part of the hiring which is during the hours of darkness as defined for the purposes of the Road Traffic Act 1972, and also at any other time at the request if the hirer.
- Not demand from any hirer of a private hire vehicles a fare in excess of any previously agreed for that hiring between the hirer and the operator or, if the vehicle is fitted with a fare meter, the fare shown on the face of the taxi-meter.

12.5.4 In the event of a journey commencing in but ending outside the Borough of Tonbridge and Malling there may be charged, for the journey, such fare or rate (if any) as was agreed before the hiring was effected. If no such agreement was made then the fare to be charged should be no greater than that determined by the taxi-meter.

12.6 Wheelchair Accessible Vehicles

12.6.1 All drivers of wheelchair accessible vehicles must:

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

Penalty Points System

13 APPENDIX G

13.1 PENALTY POINTS SYSTEM

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

Penalty Points System

- 13.1.11 Periods of suspension of a licence will be dependent upon the seriousness of the breaches of the legislation or the requirements of this Policy. The compliance history of the licence holder will also be taken into account.
- 13.1.12 A driver will always have the right to be represented at any meeting, either legally or otherwise, and to state any mitigating circumstances he deems necessary.
- 13.1.13 Any driver or vehicle proprietor or operator subject to suspension or revocation has the right of appeal to the Magistrates Court. All suspensions will therefore be subject to a 21-day appeals period prior to implementation to allow for the formal appeals process.
- 13.1.14 The penalty points system will operate without prejudice to the Council's ability to take other action under appropriate legislation or as provided for by this policy.
- 13.1.15 The penalty points system outlined below identifies a number of breaches of conditions, byelaws and/or statutory provisions. It then indicates the number of points to be invoked should the breach be proven.

13.2 Penalty Points Tariff

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

Penalty Points System

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

Penalty Points System

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

Penalty Points System

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

Penalty Points System

	Breach of Policy Requirement	Points
P1	Failure to wear a driver's badge	4-6
P2	Failure to adhere to the Code of Good Conduct for Licensed Drivers where not mentioned below	2-6
P3	Failure to ensure the safety of passengers	8-12
P4	Concealing or defacing a vehicle licence plate	6
P5	Failure to attend on time for a pre-arranged booking without reasonable cause	2
P6	Conveying a greater number of passengers than permitted	6
P7	Failure to give reasonable assistance with passenger's luggage	3
P8	Private hire soliciting for hire or accepting a fare that is not pre-booked	6-12
P9	Operating/using a vehicle that is not clean and tidy and in a safe condition internally or externally	3 - 6
P10	Driving without the consent of the proprietor	6
P11	Drinking or eating in the vehicle whilst carrying passengers	2
P12	No Smoking, Vaping or the use of e-cigarettes is permitted in a licensed vehicle at any time	12
P13	Causing excessive noise from any radio or sound-reproducing equipment	2
P14	Sounding the horn late at night to signal that the vehicle has arrived disturbing residents	2
P15	Allowing a private hire vehicle to stand in such a position as to suggest that it is plying for hire or using a hackney carriage stand	6
P16	Using a non-hands free mobile telephone whilst driving	12
P17	Failure to advise of a relevant medical condition	6-12
P18	Failure to provide a receipt for a fare when requested	2
P19	Failure to operate the meter from the commencement of the journey and /or charging more than the fixed charge for hire of a hackney carriage	4-12
P20	Failure to notify the Council of any amendment to the details of your DVLA licence (change of personal details or points being given) within fourteen days of the date printed on the amended licence.	3
P21	Failure to produce a licence upon request	3

Penalty Points System

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

Penalty Points System

	Breach of Policy Requirement	Points
P38	Carrying radio equipment or similar devices not in accordance with Council requirements	2
P39	Using a taxi-meter that does not conform to Council requirements	6
P40	Driving with no insurance or inadequate insurance for the vehicle	12
P41	Permitting the vehicle to be used for any illegal or immoral purposes	12
P42	Failure of a private hire operator to ensure that office staff act in a civil and courteous manner at all times	3
P43	Failure of a private hire operator to keep the operating premises in accordance with council requirements	3
P44	Failure of a private hire operator to ensure that all vehicles operated by him are adequately insured	12
P45	Failure of a private hire operator to obtain public liability insurance for the operating premises if the public are allowed access	12
P46	Failure to display Insignia on exterior of the two front doors of the vehicle	3
P47	Failure to keep a copy of a valid insurance certificate in the vehicle	3
P48	Failure to display the current fare chart so that it is clearly visible to passengers	3
P49	Failure to have a working Hackney Carriage Roof Light that is lit when available for hire	3
P50	Any other Operator breach of policy not mentioned herein	3
P51	Any other driver breach of policy not mentioned herein	3

14 APPENDIX H

14.1 Code of good conduct for licensed drivers

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

14.2 Responsibility to the trade:

14.2.1 Licence holders shall endeavour to promote the image of the hackney carriage and private hire trade by:

- complying with this Code of Conduct
- complying with the Council's Hackney Carriage and Private Hire Licensing Policy
- behaving in a civil, orderly and responsible manner at all times.

14.3 Responsibility to clients and high level of customer service:

- Be courteous at all times when talking to anyone, especially customers
- be polite, help customers with their baggage or shopping
- maintain your vehicles in a safe and satisfactory condition at all times
- keep your vehicles clean and suitable for hire to the public at all times
- attend punctually when undertaking pre-booked work
- assist, where necessary, passengers' ingress to and egress from the vehicle
- ensure you have change with you – (a fare may well require change).

14.4 Responsibility to residents:

- avoid being a nuisance to residents when picking up or waiting for a fare
- do not sound the vehicle's horn illegally
- keep the volume of all audio equipment and two-way radios to a minimum
- switch off the engine if required to wait
- take whatever additional action is necessary to avoid disturbance to residents in the neighbourhood
- When picking up a customer from a pre-booked appointment avoid "obstructive parking".

Code of conduct

14.5 At hackney carriage ranks, in addition to the requirements above:

- Rank in an orderly manner and proceed along the rank in order and promptly using both lanes, leaving no gaps.
- The hackney carriage at top of rank will take the customer to any destination within the Borough regardless of how short the journey may be.
- No driver will tell a customer that the minimum fare is higher than the current fare chart minimum fare.

14.6 At private hire offices:

- do not undertake servicing or repairs of vehicles
- do not allow volume of all audio equipment and two-way radios to unduly disturb residents of the neighbourhood
- take whatever additional action is necessary to avoid disturbance to residents in the neighbourhood, which might arise from the conduct of their business.

14.7 General

14.7.1 Drivers shall:

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

14.8 Disciplinary Hearings

14.8.1 Drivers should be aware of the powers the Council can enforce, by way of suspension, revocation or refusal to renew a driver's licence where:

- the driver has been convicted, since the grant of the licence, of an offence involving dishonesty, indecency or violence

Code of conduct

- the driver has been convicted of an offence under any legislation relating to hackney carriage or private hire regulation
- the driver has breached any requirements of the Council's Hackney Carriage and Private Hire Licensing Policy
- there is a breach of conditions of this code

14.9 Responsibility towards Council Employees

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

Private Hire Operators - conditions

15 APPENDIX I

15.1 PRIVATE HIRE OPERATORS LICENCE CONDITIONS

15.2 Standards of Service

15.2.1 The operator shall:

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

15.3 Records

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

Private Hire Operators - conditions

15.4 Bookings

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

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

15.5 Vehicles

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

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

15.6 Drivers

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

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

Private Hire Operators - conditions

15.7 Disclosure of Convictions

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

15.8 Insurance

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

15.9 Private Hire Drivers' Licences

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

15.10 Miscellaneous

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

Private Hire Operators - conditions

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

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

Taxi and Private Hire Enforcement Policy

16 APPENDIX J

16.1 HACKNEY CARRIAGE AND PRIVATE HIRE ENFORCEMENT POLICY

16.2 Enforcement Policy Statement

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

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

- **Economic progress** – the Council recognises that a key element of our enforcement activity will be to allow/ encourage economic progress and we shall only intervene where there is a clear case for protection
- **Risk Assessment** – we shall use a comprehensive risk assessment to concentrate resources in the areas that need them most
- **Advice and guidance** – we will provide authoritative, accessible advice easily and cheaply
- **Compliance and enforcement actions** – the few businesses that persistently break statutory requirements will be identified quickly and face proportionate and meaningful sanctions
- **Accountability** – the Council will be accountable for the efficiency and effectiveness of its activities, while remaining independent in the decisions it takes,

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

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

Taxi and Private Hire Enforcement Policy

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

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

16.3 Enforcement Options

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

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

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

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

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

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

Taxi and Private Hire Enforcement Policy

16.4 Informal Action

- 16.4.1 Informal action to secure compliance with legislation includes offering advice, verbal and written warnings and requests for action and the use of letters.
- 16.4.2 Such informal enforcement action may be appropriate in any of the following circumstances:-
- the act or omission is not serious enough to warrant more formal action;
 - it can be reasonably expected that informal action will achieve compliance, perhaps by taking into account the individual driver or operator's past history;
 - confidence in the operator's management is high;
 - the consequences of non-compliance will not pose a significant risk to the safety of the public.
- 16.4.3 Even where some of the above criteria are not met, there may be circumstances in which informal action will be more effective than a formal approach.

16.5 Appearance before the Licensing & Appeals Panel

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

16.6 Section 68 Notices (Stop Notices)

- 16.6.1 An authorised officer may serve notice in writing for a hackney carriage or private hire vehicle or the taximeter affixed to such vehicle to be examined at the Council's appointed garage at a time specified in the notice. This notice must only be served having had due regard to the condition of the vehicle or with reasonable grounds to suspect the accuracy of the taximeter.
- 16.6.2 An authorised officer may, in addition to requiring the vehicle to be tested, suspend the vehicle licence until such time as he is satisfied with the condition of

Taxi and Private Hire Enforcement Policy

the hackney carriage or private hire vehicle. This action will only be taken when he has reasonable grounds to suspect that the condition of the vehicle is an immediate danger to passenger and/or other road users.

- 16.6.3 The suspension notice will remain in place until such time as the Officer issuing the notice is satisfied that the grounds for suspension have been satisfactorily resolved. Written confirmation of the lifting of the suspension notice will be given. Until such time as written confirmation has been received, the suspension notification will remain active.
- 16.6.4 If the Authorised Officer who issued the suspension notice is not satisfied that the appropriate action has been taken to allow the suspension notice to be withdrawn within a period of two months from the date of issue, the vehicle licence shall be deemed to be revoked.

16.7 Appeals

- 16.7.1 Appeals against decisions of the Licensing and Appeals Panel or authorised officers may be made to the Magistrates' Court.
- 16.7.2 Any notifications of enforcement actions will include written information on how to appeal. Where the Council suspends or revokes a driver's licence the revocation or suspension may come into effect immediately regardless of the fact that the driver may have made an appeal against the decision to the Magistrates' Court.
- 16.7.3 A driver can also appeal against a refusal to renew his driver's licence, but if his previous licence has already expired he cannot continue to drive as he would no longer hold a current licence.

16.8 Prosecution

- 16.8.1 The decision to prosecute is a very significant one as it may impact on the licence holder's future employability. Prosecution will, in general, be restricted to those circumstances where the law is blatantly disregarded, legitimate requirements of the Council are not followed and / or the public is put at serious risk. Such circumstances are, however, in a minority. It is important that the criteria on which a decision to prosecute is made provide common standards which ensure a consistent approach.
- 16.8.2 The circumstances which are likely to warrant prosecution may be characterised by one or more of the following:-
- where there is a blatant disregard for the law, particularly where the economic advantages of breaking the law are substantial and the law-abiding are placed at a disadvantage to those who disregard it;
 - when there appears to have been reckless disregard for the safety of passengers or other road users;
 - where there have been repeated breaches of legal requirements;
 - where a particular type of offence is prevalent;
 - where a particular contravention has caused serious public alarm.

Taxi and Private Hire Enforcement Policy

- 16.8.3 When circumstances have been identified which may warrant a prosecution, all relevant evidence and information must be considered, to enable a consistent, fair and objective decision to be made.
- 16.8.4 Before referring a matter to the Legal Section for possible prosecution, the Licensing and Community Safety Manager must be satisfied that there is relevant, admissible, substantial and reliable evidence that an offence has been committed by an identifiable person or company. There must be a realistic prospect of conviction; a bare prima facie case is not enough. With insufficient evidence to prosecute, the issue of a simple caution is not an alternative.
- 16.8.5 In addition to being satisfied that there is sufficient evidence to provide realistic prospect of conviction, it must be established that it is in the public interest to prosecute. The Code for Crown Prosecutors, issued by the Crown Prosecution Service, provides guidance which will be considered, including relevant public interest criteria
- 16.8.6 When a decision is being taken on whether to prosecute, the factors to be considered may include:-
- the seriousness of the alleged offence;
 - the risk or harm to the public;
 - identifiable victims;
 - failure to comply with a statutory notice served for a significant breach of legislation;
 - disregard of safety for financial reward;
 - the previous history of the party concerned;
 - offences following a history of similar offences;
 - failure to respond positively to past warnings;
 - the credibility of any important witnesses and their willingness to cooperate;
 - the willingness of the party to put right the loss or harm that has occurred,
 - whether a prosecution would have a significant positive impact on maintaining community confidence;
 - whether other action, such as issuing a simple caution in accordance with the Home Office Circular 016./2008 would be more appropriate or effective.

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

16.9 Simple Cautions

- 16.9.1 A simple caution may be used as an alternative to a prosecution in certain circumstances.
- 16.9.2 The purposes of the simple caution are:-
- to deal quickly and simply with less serious offences where the offender has admitted the offence;

Taxi and Private Hire Enforcement Policy

- to divert offenders where appropriate from appearing in the criminal Courts;
- to reduce the chances of re-offending
- To safeguard the suspected offender's interests, the following conditions should be fulfilled before a caution is administered:-
- there must be evidence of the suspected offender's guilt sufficient to give a realistic prospect of conviction;
- the suspected offender must have made a clear and reliable admission of the offence;
- the suspected offender must understand the significance of a simple caution and give informed consent to being cautioned;
- A simple caution must be appropriate to the offence and the offender

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

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

16.10 Transparency

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

16.10.2 Any written documentation issued or sent will:-

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

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

17 APPENDIX K

17.1 GROUNDS FOR APPEAL TO MAGISTRATES' COURT

17.2 An Appeal

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

Hackney Carriage

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

Private Hire

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

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

18 APPENDIX L

18.1 Taxi and Private Hire Complaints Procedure

18.2 Complaints Procedure Policy

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

Summary of Legislation

19 APPENDIX M

19.1 SUMMARY OF LEGISLATION

TOWN POLICE CLAUSES ACT 1847	
Section 46 Driver not to act without first obtaining a licence	No person shall act as a driver of any hackney carriage without first obtaining a licence
Section 48 Proprietors to retain licences of drivers and produce the same before justices' on complaint	Proprietors must retain licences of drivers while they remain in his employment. Where the proprietor of a hackney carriage is summoned before a justice or to produce the driver he shall also produce the licence of the driver if he is in his employment
Section 52 Penalty for neglect or refusing to exhibit the prescribed number of passengers	If the proprietor, or driver of any hackney carriage permits the same to be used, employed, stand or ply for hire without having the number of persons to be carried displayed in the in the prescribed manner
Section 53 Penalty on driver for refusing to drive	The driver of any hackney carriage standing at any stands for hackney carriages or in any street, without reasonable excuse shall not refuse or neglect to drive such carriage to any place within the prescribed distance
Section 54 Demanding more than the sum agreed	Proprietors or drivers of hackney carriages or any person on his behalf is not permitted to exact or demand more than the fare agreed
Section 55 Payment of more than the legal fare	No agreement whatsoever shall be made between the driver or with any person having or pretending to have the care of any such hackney carriage, for the payment of more than the fare allowed by any byelaw or Act
Section 56 Agreement to carry passengers a discretionary distance for a fixed sum	If the proprietor or driver of any hackney carriage, or any other person on his behalf, agrees to carry persons for a distance at the discretion of the proprietor or driver, and for a sum agreed upon, he shall not carry those persons for a lesser distance than would be allowed by the sum agreed according to the scale of fares in force
Section 57 Deposits made for hackney carriages required to wait	When a hackney carriage is hired and taken to any place, and the driver is required to wait by the hirer, the driver may demand his fare for driving to such place, and a fare for the waiting period
Section 59 Persons riding without the consent of the hirer	No proprietor or driver of any hackney carriage which is hired, shall not without the express consent of the person hiring the said hackney carriage permit any other person to be carried in such hackney carriage

Summary of Legislation

Section 60 No unauthorised person to act as driver	No authorised driver of a hackney carriage shall allow any person, whether licensed or not, to act as the driver of any hackney carriage without the consent of the proprietor
Section 61 Drunkenness and furious driving	No driver or any other person having or pretending to have the care of any such hackney carriage shall do so whilst intoxicated, or drive in a wanton and furious manner, or by any other wilful misconduct injure or endanger any person in his life limb or property
Section 62 Carriages being left at places of public resort	A driver of any hackney carriage may not leave it in any street or any place or public resort or entertainment, whether it be hired or not, without someone proper to take care of it
Section 64 Drivers obstructing other drivers	Any driver of any hackney carriage shall not obstruct or hinder any driver of any carriage in taking up or setting down any person into or from that carriage, nor shall they, in a forcible manner prevent or endeavour the driver of any other hackney carriage from being hired

Summary of Legislation

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976	
Section 46 Vehicle, driver and operators licences	<p>No person being the proprietor of any vehicle not being a hackney carriage in respect of which a vehicle licence is in force, shall use or permit the same to be used in a controlled district as a private hire vehicle without having for such a vehicle a current licence under section 48 of this Act</p> <p>No person shall act in a controlled district as a driver of any private hire vehicle without having a current licence under section 51 of this Act</p> <p>No person being the proprietor of a private hire vehicle licensed under this part of this Act shall employ as the driver thereof for the purpose of any hiring any person who does not have a current licence under the said section 51</p> <p>No person in a controlled district shall operate any vehicle as a private hire vehicle without having obtained a current licence under section 55 of this Act</p> <p>No person licensed under the said section 55 shall in a controlled district operate any vehicle as a private hire vehicle – (i) if the vehicle does not have a current licence under section 48 of this Act (ii) if the driver does not have current licence under section 51 of this Act</p>
Section 49 Transfer of hackney carriage and private hire vehicles	<p>The proprietor of a hackney carriage or private hire vehicle shall give written notice to the district council within fourteen (14) days of the transfer of the vehicle. Such notification shall specify the name and address of the person to whom the hackney carriage or private hire vehicle has been transferred</p>
Section 50 Provisions as to proprietors	<p>(1) The proprietor of any hackney carriage or private hire vehicle licensed by a district council shall present such hackney carriage or private hire vehicle for inspection and testing by or on behalf of the council within such period and at such place within the area of the council as they may by notice reasonably require</p> <p>(2) The proprietor of any hackney carriage or private hire vehicle shall, within such period as the district council may by notice reasonably require, state in writing the address of every place where such hackney carriage or private hire vehicle is kept when not in use</p> <p>(3) The proprietor of a hackney carriage or private hire vehicle licensed by a</p>

Summary of Legislation

	<p>district council shall report to them as soon as reasonably practicable, and in any case within 72 hours of the occurrence thereof any accident to such hackney carriage or private hire vehicle causing damage materially affecting the safety, performance or appearance of the hackney carriage or private hire vehicle or the comfort or convenience of persons carried therein</p> <p>(4)</p> <p>The proprietor of any hackney carriage or private hire vehicle licensed by a district council shall at the request of any authorised officer of the council produce for inspection the vehicle licence for such hackney carriage or private hire vehicle and the Certificate of Policy of Insurance or security required by the Road Traffic Acts in respect of such hackney carriage or private hire vehicle</p>
<p>Section 53 Drivers' licences for hackney carriage and private hire vehicles</p>	<p>The driver of any hackney carriage or of any private hire vehicle licensed by a district council shall at the request of any authorised officer of the council or of any constable produce for inspection his drivers' licence forthwith or</p> <p>(a)</p> <p>in the case of the request by an authorised officer at the principal offices of the council, before the expiration of the period of five days beginning with the day following that on which the request was made</p> <p>(b)</p> <p>in the case of a request by a constable, before the expiration of the period aforesaid at any police station which is within the area of the council and is nominated by the driver when the request is made</p>
<p>Section 54 Wearing of drivers badges</p>	<p>A driver shall at all times when acting in accordance with a drivers licence granted to him wear such badge in such position and manner as to be plainly and distinctly visible</p>
<p>Section 56 Operators of private hire vehicles</p>	<p>(i)</p> <p>Every contract for the hire of a private hire vehicle licensed under this Act shall be deemed to be made with the operator who accepted the booking for that vehicle whether or not he himself provided the vehicle</p> <p>(ii)</p> <p>Every person to whom a licence in force under this Act shall keep a record in such form as the council may by condition attach to the grant of the licence, and enter details in the record before the commencement of each journey, particulars of every booking of a private hire vehicle invited or accepted by him whether by accepting the same from the hirer or at the request of another operator. The operator shall produce such record on request to any authorised officer of the council or constable for inspection.</p> <p>(iii)</p> <p>Any person who has a licence under this Act shall enter details in the record the particulars of any private hire vehicle operated by him and shall produce the same on request to any authorised officer of the</p>

Summary of Legislation

	<p>council or constable for inspection</p> <p>(iv)</p> <p>A person to whom a licence has been granted under this Act shall produce the licence on request to any authorised officer of the council or constable for inspection</p>
Section 57 power to require applicants to submit information	Any applicant for a licence under the Act of 1847 and this part of this Act shall submit to a district council such information as they may reasonably consider necessary to enable them to determine whether the licence should be granted and whether conditions should be attached to any licence
Section 58 Return of identity plate or disc on revocation or expiry of licence	<p>(a)</p> <p>On the revocation or expiry of a vehicle licence in relation to a hackney carriage or private hire vehicle</p> <p>(b)</p> <p>The suspension of a licence under section 68 of this Act</p> <p>The proprietor of the hackney carriage or private hire vehicle shall, on request of the district council issuing the licence, return within 7 days to the council the plate or disc</p>
Section 59 Qualifications for drivers of hackney carriages	A person must be authorised to drive a motor vehicle under Part III of the Road Traffic Acts for a minimum of twelve months prior to the application for a driver licence
Section 64 Fares for long journeys	A driver of a hackney carriage must not charge a fare for a journey ending outside the licensing district, greater than that agreed before the hiring was effected or that indicated on the taxi meter or fixed by the table of fares in force within the licensing district
Section 67 Hackney carriages used for private hire	No hackney carriage shall be used in the district under a contract or proposed contract for private hire except at a rate of fares or charges not greater than that fixed by the table of fares, and when any such hackney carriage is so used the fare or charge shall be calculated from the point in the district at which the hirer commences his journey
Section 69 Prolongation of journeys	No person being the driver of a hackney carriage or private hire vehicle licensed by a district council shall without reasonable excuse unnecessarily prolong, in distance or in time, the journey for which the hackney carriage or private hire vehicle has been hired
Section 71 taximeters	Any person who (a) tampers with any seal on any taximeter without lawful excuse; or (b) alters any taximeter with intent to mislead; or (c) knowingly causes or permits a vehicle of which he is the proprietor to be used in contravention of this section shall be guilty of an offence
Section 73 Obstruction of authorised officers	<p>(1)</p> <p>Any person who (a) wilfully obstructs an authorised officer or constable; or (b) without reasonable excuse fails to comply with any requirements</p>

Summary of Legislation

	properly made to him by such officer or constable; or (c) without reasonable cause fails to give such officer or constable so acting any other assistance or information which he may reasonably require of such person for the purpose of the performance of his functions shall be guilty of an offence
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(2)

If any person in giving any information to (1) makes any statement he knows to be false he shall be guilty of an offence

Delegations

20 Appendix N Delegations

20.1.1 In accordance with paragraph 2.6 of Section 5 (functions delegated to officers), Part 3 of the Constitution of Tonbridge and Malling Borough Council the Licensing Manager is authorised to exercise the following delegated powers:

DCS 800	To exercise all of the Council's functions with regard to the licensing of Hackney Carriage vehicles and drivers and Private Hire vehicles drivers and operators. This authority shall include power to grant or refuse applications for licences under the applicable legislation.
DCS 801	To permit departures from the standard licence conditions in respect of specific hackney carriages or private hire vehicles in circumstances where he considers it appropriate so to do.
DCS 802	To take all enforcement action including the power to suspend/ revoke: (a) vehicle licences (b) drivers' licences (c) operators' licences Under the Local Government (Miscellaneous Provisions) Act 1976, including where the suspension is to have immediate effect.
DCS 803	To lodge objections with the Licensing Authority for applications for Goods Vehicle Operators licences under the Goods Vehicles (Licensing of Operators) Act 1995 and to appear at public inquiries to present the Council's case.

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Annex 2

Feedback Form – Taxi Policy – consultation responses

Respondent	Comment

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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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