



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: Democratic Services
committee.services@tmbc.gov.uk

19 September 2023

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 Council Chamber, Gibson Drive, Kings Hill on Wednesday, 27th September, 2023 commencing at 7.30 pm.

Members of the Committee are required to attend in person. Other Members may attend in person or participate online via MS Teams.

Information on how to observe the meeting will be published on the Council's website.

Yours faithfully

JULIE BEILBY

Chief Executive

A G E N D A

1. Guidance on the Conduct of Meetings

5 - 8

PART 1 - PUBLIC

2. Apologies for Absence

3. Declarations of Interest 9 - 10

Members are reminded of their obligation under the Council's Code of Conduct to disclose any Disclosable Pecuniary Interests and Other Significant Interests in any matter(s) to be considered or being considered at the meeting. These are explained in the Code of Conduct on the Council's website at [Code of conduct – Tonbridge and Malling Borough Council \(tmbc.gov.uk\)](https://www.tmbc.gov.uk/code-of-conduct).

Members in any doubt about such declarations are advised to contact Legal or Democratic Services in advance of the meeting.

4. Minutes 11 - 12

To confirm as a correct record the Minutes of the meeting of Licensing and Appeals Committee held on 5 July 2023.

5. Minutes of Panel 13 - 22

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

- 9 August 2023 in respect of a Taxi Hearing
- 9 August 2023 in respect of a Taxi Hearing
- 11 August 2023 in respect of a Taxi Hearing
- 16 August 2023 in respect of a Premises Licence
- 8 September 2023 in respect of a Taxi Hearing

6. Training - Taxi Licensing

Members to receive a training session on Taxi Licensing.

Matters for recommendation to the Council

7. Feedback from Consultation on the Hackney Carriage and Private Hire Policy 2023-2028 23 - 150

The report seeks approval of the proposed changes to the Hackney Carriage and Private Hire Policy.

Decisions to be taken under Delegated Powers

8. The Scrap Metal Dealers Policy 2024-2029 151 - 176

The report invites Members to approve the draft Scrap Metal Dealers policy for consultation.

9. Licensed Vehicle Emissions Discussion

This is a verbal item where Members are invited to discuss licensed vehicle emissions prior to consultation.

Matters submitted for Information

10. Urgent Items 177 - 178

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

Matters for consideration in Private

11. Exclusion of Press and Public 179 - 180

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

12. Urgent Items 181 - 182

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

MEMBERSHIP

Cllr C Brown (Chair)
Cllr C J Williams (Vice-Chair)

Cllr B Banks
Cllr M A Coffin
Cllr A Cope
Cllr D Keers
Cllr D W King
Cllr W J Mallard

Cllr R W G Oliver
Cllr R V Roud
Cllr M Taylor
Cllr D Thornewell
Cllr K S Tunstall

GUIDANCE ON HOW MEETINGS WILL BE CONDUCTED

- (1) Most of the Borough Council meetings are livestreamed, unless there is exempt or confidential business being discussed, giving residents the opportunity to see decision making in action. These can be watched via our YouTube channel. When it is not possible to livestream meetings they are recorded and uploaded as soon as possible:

<https://www.youtube.com/channel/UCPp-IJISNgoF-ugSzxiAPfw/featured>

- (2) There are no fire drills planned during the time a meeting is being held. For the benefit of those in the meeting room, the fire alarm is a long continuous bell and the exits are via the doors used to enter the room. An officer on site will lead any evacuation.
- (3) Should you need this agenda or any of the reports in a different format, or have any other queries concerning the meeting, please contact Democratic Services on committee.services@tmbc.gov.uk in the first instance.

Attendance:

- Members of the Committee are required to attend in person and be present in the meeting room. Only these Members are able to move/ second or amend motions, and vote.
- Other Members of the Council can join via MS Teams and can take part in any discussion and ask questions, when invited to do so by the Chair, but cannot move/ second or amend motions or vote on any matters. Members participating remotely are reminded that this does not count towards their formal committee attendance.
- Occasionally, Members of the Committee are unable to attend in person and may join via MS Teams in the same way as other Members. However, they are unable to move/ second or amend motions or vote on any matters if they are not present in the meeting room. As with other Members joining via MS Teams, this does not count towards their formal committee attendance.
- Officers can participate in person or online.

- Members of the public addressing an Area Planning Committee should attend in person. However, arrangements to participate online can be considered in certain circumstances. Please contact committee.services@tmhc.gov.uk for further information.

Before formal proceedings start there will be a sound check of Members/Officers in the room. This is done as a roll call and confirms attendance of voting Members.

Ground Rules:

The meeting will operate under the following ground rules:

- Members in the Chamber should indicate to speak in the usual way and use the fixed microphones in front of them. These need to be switched on when speaking or comments will not be heard by those participating online. Please switch off microphones when not speaking.
- If there any technical issues the meeting will be adjourned to try and rectify them. If this is not possible there are a number of options that can be taken to enable the meeting to continue. These will be explained if it becomes necessary.

For those Members participating online:

- please request to speak using the 'chat or hand raised function';
- please turn off cameras and microphones when not speaking;
- please do not use the 'chat function' for other matters as comments can be seen by all;
- Members may wish to blur the background on their camera using the facility on Microsoft teams.
- Please avoid distractions and general chat if not addressing the meeting
- Please remember to turn off or silence mobile phones

Voting:

Voting may be undertaken by way of a roll call and each Member should verbally respond For, Against, Abstain. The vote will be noted and announced by the Democratic Services Officer.

Alternatively, votes may be taken by general affirmation if it seems that there is agreement amongst Members. The Chairman will announce the outcome of the vote for those participating and viewing online.

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Declarations of interest

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TONBRIDGE AND MALLING BOROUGH COUNCIL

LICENSING AND APPEALS COMMITTEE

MINUTES

Wednesday, 5th July, 2023

Present: Cllr C Brown (Chair), Cllr C J Williams (Vice-Chair), Cllr B Banks, Cllr M A Coffin, Cllr A Cope, Cllr D Keers, Cllr W J Mallard, Cllr R W G Oliver, Cllr R V Roud, Cllr M Taylor and Cllr K S Tunstall.

Apologies for absence were received from Councillors D W King and D Thornewell.

PART 1 - PUBLIC

LA 23/7 DECLARATIONS OF INTEREST

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

LA 23/8 MINUTES

RESOLVED: That the Minutes of the meeting of the Licensing and Appeals Committee held on 28 March 2023 be approved as a correct record and signed by the Chairman.

LA 23/9 MINUTES OF PANEL

RESOLVED: That the Minutes of the meetings of the Licensing and Appeals Committee sitting as a Panel held on 29 March 2023 and 12 April 2023 be received and noted subject to an amendment to the minutes of the 29 March 2023 to reflect that Councillor Kemp was in present as Chair.

LA 23/10 TRAINING - OVERVIEW OF LICENSING

The Committee received a presentation from the Head of Licensing, Community Safety and Customer Service, introducing the work of the Licensing and Appeals Committee for the particular benefit of new Borough Councillors and of the Committee. An overview of the Licensing Act 2003 was given and an outline of the Licensing regime provided, with particular focus on Premises Licenses and the operation of Panels/Hearings.

DECISIONS TO BE TAKEN UNDER DELEGATED POWERS**LA 23/11 STREET TRADING FEES**

The report of the Director of Central Services and Deputy Chief Executive set out the recommended changes to the existing fee structure for Street Trading. The proposed fee levels for street trading consents were set out at 1.2.6 of the report and the Street Trading fee module, together with the street trading fees of neighbouring authorities was attached at Annex 5.

During discussion, Members were advised that the Local Government (Miscellaneous Provisions) Act 1982 provided a list of activities which were not 'street trading' and therefore would not require consent.

RESOLVED: That the proposed scale of fees for licences, consents and registrations set out in 1.2 6 of the report, be adopted with immediate effect.

LA 23/12 REVIEW OF HACKNEY CARRIAGE AND PRIVATE HIRE POLICY

The report of the Director of Central Services and Deputy Chief Executive presented a review of the Hackney Carriage and Private Hire Policy. The report outlined the timescale for the consultation to be undertaken between 10 July 2023 and 1 September 2023. Particular reference was made to the proposed changes set out at paragraph 1.3 of the report and a copy of the current policy was attached at Annex 1. The report outlined the arrangements for public consultation on the policy including meetings with trade members, which Members were welcome to attend.

RESOLVED: That the draft Hackney Carriage and Private Hire Policy be approved for consultation.

LA 23/13 EXCLUSION OF PRESS AND PUBLIC

There were no items considered in private.

The meeting ended at 8.22 pm

TONBRIDGE AND MALLING BOROUGH COUNCIL

LICENSING AND APPEALS PANEL

MINUTES

Wednesday, 9th August, 2023

Present: Cllr M Taylor, Cllr D Keers (Chairman) and Cllr R W G Oliver

PART 1 - PUBLIC

LAP 23/10 DECLARATIONS OF INTEREST

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

LAP 23/11 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

LAP 23/12 REVIEW OF PRIVATE HIRE DRIVER'S LICENCE - CASE NO 003/2023

The Licensing and Appeals Committee, sitting as a Panel was asked to consider whether any action was appropriate in respect of a holder of a Private Hire Driver's licence, following the receipt of information from Kent County Council (KCC) School Contracts Team.

The report of the Director of Central Services and Deputy Chief Executive advised that an enforcement operation had been carried out by a KCC Transport Compliance Inspector at a school on 15 May 2023. The Inspector saw the licence holder driving a car which displayed an out-of-date private hire plate. The plate had expired on 4 May 2023, meaning that the vehicle was no longer licensed to be used as a private hire vehicle. Although a renewal application had been submitted by the operators of the vehicle, the MOT and compliance test had not been carried out and the new plates had not been collected.

When the inspector asked to see the licence holders Private Hire badge, they could not produce it.

The Panel listened carefully to all the information provided and were satisfied on the balance of probabilities that the licence holder had failed to comply with some of the provisions of Part II of the Local Government (Miscellaneous Provisions) Act 1976.

The Panel was satisfied that on 15 May 2023 the licence holder did not have their driver's badge with them in contravention of s.54 (2) of the Act although they believed that the licence holder had made a mistake in taking their carer's badge instead of their driver's badge when they left the house in the morning.

The Panel was also satisfied that the Licence Holder had used an unlicensed vehicle whilst working as a private hire driver. The panel emphasised to the licence holder that they needed to take full responsibility for any vehicle that they drove to ensure it was properly licensed and was displaying valid plates.

Taking into consideration everything that the Licence holder had said at the hearing, and the fact that they had acknowledged a number of shortcomings on their part, the panel imposed 3 penalty points under Appendix H of the Council's Hackney Carriage and Private Hire Policy.

RESOLVED: That, in respect of Case Number 003/2023, three penalty points be imposed on the Private Hire Driver's licence.

The meeting ended at 11.01 am
Having commenced at 10.20 am

TONBRIDGE AND MALLING BOROUGH COUNCIL

LICENSING AND APPEALS PANEL

MINUTES

Wednesday, 9th August, 2023

Present: Cllr M Taylor, Cllr D Keers (Chairman) and Cllr R W G Oliver

PART 1 - PUBLIC

LAP 23/13 DECLARATIONS OF INTEREST

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

LAP 23/14 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

LAP 23/15 REVIEW OF A PRIVATE HIRE OPERATORS LICENCE - CASE NO 004/2023

The Licensing and Appeals Committee, sitting as a Panel, was asked to consider whether any action was appropriate in respect of a holder of a Private Hire Operators licence, following receipt of information from Kent County Council (KCC) School Contracts Team.

An enforcement operation was carried out by a KCC Transport Compliance Inspector at a school on 15 May 2023. Whilst at the school, the Inspector observed a car being used as a private hire vehicle when the displayed private hire plate had expired on 4 May 2023.

The vehicle was licensed to an individual and although a renewal application had been submitted, the MOT and compliance test had not been carried out and the new plates had not been collected. This meant that the licensed driver, carrying out the school contract was doing so in an unlicensed vehicle.

The panel carefully considered all the relevant information supplied in the report and everything they heard at the hearing. The Panel was satisfied that the operator, and its directors, had permitted one of their vehicles to be used in a controlled district as a private hire vehicle without having for that vehicle a current licence under s.48 of the Local Government (Miscellaneous Provisions) Act 1976 in contravention of s.46 (1)(a) of the Act.

Under section 62 of the Act, the Panel noted that they could have suspended or revoked the operator's licence and seriously considered both of those options. The Panel also took note of the bereavement suffered by the operator at this time and how this may have impacted the running of the business.

In the circumstances and taking into account that both directors had admitted to various shortcomings in their administrative systems identified in the report and had promised to implement a number of significant changes and improvements in their management processes, the Panel decided to impose 9 penalty points on each director under appendix H of the councils Hackney Carriage and Private Hire Taxi Policy.

RESOLVED: That, in respect of Case Number 004/2023, nine penalty points be imposed on each director of the Private Hire Operators licence.

The meeting ended at 12.28 pm
Having commenced at 11.32 am

TONBRIDGE AND MALLING BOROUGH COUNCIL

LICENSING AND APPEALS PANEL

Friday, 11th August, 2023

Present: Cllr D W King, Cllr M Taylor (Chair) and Cllr C J Williams.

PART 1 - PUBLIC

LAP 23/16 DECLARATIONS OF INTEREST

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

LAP 23/17 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

LAP 23/18 REVIEW OF A HACKNEY CARRIAGE DRIVER'S LICENCE - CASE NO 005/2023

The Licensing and Appeals Committee, sitting as a Panel was asked to consider whether any action was appropriate in respect of a holder of a Hackney Carriage Driver's licence, following receipt of information by Licensing Services that brought their attention to the fact that the licence holder had been driving a licenced Hackney Carriage vehicle after their Hackney Carriage Driver's licence had expired.

The Panel listened carefully to all the information provided and were satisfied that on the balance of probability, the licence holder had made a mistake in not renewing their Hackney Carriage Driver's Badge until three months after the expiry date. It was clear in future, that the individual needed to take responsibility to renew their Hackney Carriage Driver's Badge before the badge expired.

The Panel considered the mitigating circumstances to why the individual had not renewed their badge, the fact that the individual did not drive the Hackney Carriage Vehicle when they realised that their licence had expired and that they took action to renew their badge with expediency.

The Panel also pointed out that the individual acted in a manner contrary to S.41 of the Local Government (Miscellaneous Provisions) Act 1976.

After much deliberation, the Panel agreed to give the individual the benefit of doubt, and therefore granted the Hackney Carriage Driving Licence.

RESOLVED: That, in respect of Case Number 005/2023, the Hackney Carriage Driver's licence be GRANTED.

The meeting ended at 11.05 am
Having commenced at 10.00 am.

TONBRIDGE AND MALLING BOROUGH COUNCIL

LICENSING AND APPEALS PANEL

MINUTES

Wednesday, 16th August, 2023

Present: Cllr M Taylor (Chair), Cllr C J Williams and Cllr B Banks

PART 1 - PUBLIC

LAP 23/19 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

LAP 23/20 APPLICATION FOR A PREMISES REVIEW - DESH, 68 - 70 HIGH STREET, WEST MALLING ME19 6LU

The Report of the Director of Central Services and Deputy Chief Executive asked the Panel to consider an application for a review of a premises licence which had been made under Section 51 of the Licensing Act 2003 in relation to the premises known as Desh, 68-70 High Street, West Malling ME19 6LU.

The Applicants Representative, Mr Wesley Halls, Senior Immigration Officer, addressed the Panel during which he advised that consideration had been given to further evidence submitted by the Premises Licence Holder, including the introduction of employment checks, and as a result, the Home Office was satisfied that they had no concerns that the licensing objectives would not be met in the future.

Furthermore, having regard to the positive record of the Premises Licence holder and the favourable comments received from the responsible authorities, the Home Office was satisfied that no action should be taken and respectively requested that the application for a review of the premises licence be withdrawn.

RESOLVED: That the application for a review of the premises licence, be withdrawn.

LAP 23/21 EXCLUSION OF PRESS AND PUBLIC

There were no items considered in private.

The meeting ended at 10.16 am
Having commenced at 10.14 am

TONBRIDGE AND MALLING BOROUGH COUNCIL

LICENSING AND APPEALS PANEL

MINUTES

Friday, 8th September, 2023

Present: Cllr M A Coffin (Chair), Cllr M Taylor and Cllr K S Tunstall

PART 1 - PUBLIC

LAP 23/22 DECLARATIONS OF INTEREST

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

LAP 23/23 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

LAP 23/24 REVIEW OF PRIVATE HIRE DRIVER'S LICENCE - CASE NO 06/2023

The Licensing and Appeals Committee, sitting as a Panel was asked to consider whether any action was appropriate in respect of a holder of a Private Hire Driver's licence, following the receipt of information from the Disclosure & Barring Service (DBS).

The driver produced a Disclosure and Barring Service (DBS) Certificate dated 19 December 2022 which showed that they had a conviction on 13 February 2020 for fly-tipping contrary to s.33 (1)(B) of the Environmental Protection Act 1990 for which they received a community order as well as two offences of perverting the course of justice contrary to common law dating back to 2012 and 2013 for which they received a custodial sentence of six months.

On their application form for renewal of their private hire driver's licence dated 2 August 2022, the driver had disclosed a conviction for speeding dated 10 October 2021 but had failed to disclose the conviction for fly-

tipping (the form did not require them to disclose convictions that were more than three years old).

At the hearing, the driver, who was legally represented, said that they had told the Licensing Team by an email dated 17 February 2020 about their conviction for fly-tipping and that they had also mentioned it on another form that they had submitted to the Licensing Team (application to renew their operator's licence which referred in general terms to other matters but not specifically to an offence contrary to s.33 of the EPA 1990).

Whilst considering their decision, the Panel was referred to the Institute of Licensing's Guidance on determining the suitability of applicants and licensees in the hackney and private hire trades, in particular the paragraphs on drivers, previous convictions and dishonesty. The Council also took into account the Council's own Licensing Policy on private hire and hackney carriage drivers.

Having considered all of the evidence, namely the written report, the oral representations from the Licensing Team and the information provided by the driver at the hearing and the representations made by their solicitor, the Panel decided unanimously that the application to renew the private hire driver's licence should not be granted. The Panel relied upon the ground of "any other reasonable cause" under s.61(1)(b) of the Local Government (Miscellaneous Provisions) Act 1976 to make their decision.

The Panel was not satisfied that the individual was a "fit and proper" person or sufficiently "safe and suitable" to hold a private hire driver's licence based on their findings that they had failed to disclose their conviction on their renewal application form, they had failed to notify the Council within seven days of this conviction or at all, and bearing in mind their previous convictions for perverting the course of justice (the Panel considered that these convictions were still relevant despite their age).

RESOLVED: That, in respect of Case Number 06/2023, the renewal of the Private Hire Driver's licence be REFUSED.

The meeting ended at 1.00 pm
Having commenced at 10.40 am

TONBRIDGE & MALLING BOROUGH COUNCIL

LICENSING & APPEALS COMMITTEE

27 September 2023

Report of the Director of Central Services and Deputy Chief Executive

Part 1- Public

Matters for Recommendation to Council

1 FEEDBACK FROM CONSULTATION ON THE HACKNEY CARRIAGE AND PRIVATE HIRE POLICY 2023 - 2028

1.1 Summary

1.1.1 On 5 July 2023 Members approved, for consultation purposes, proposed changes to the existing Hackney Carriage and Private Hire licensing policy. This report asks Members to recommend to Council that the amended policy be adopted.

1.1.2 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.

1.1.3 The current Hackney Carriage and Private Hire Policy was approved by Full Council on the 10 April 2018.

1.1.4 The current Hackney Carriage and Private Hire Policy again went out on consultation, to include the Department for Transport’s Statutory Taxi & Private Hire Vehicle Standards from 23 November 2020 until the 31 January 2021.

The updated policy was considered by the Licensing and Appeals Committee on the 9 March 2021 and was approved by Full Council on the 13 April 2021.

1.1.5 The proposed new policy went out for public consultation from the 10 July 2023 until the 1 September 2023. The consultation received 82 responses.

1.1.6 The proposed changes within the consultation are shown in **Annex 1**.

1.1.7 The 82 responses to the consultation are shown in **Annex 2**

1.1.8 The response to the consultation in the form of a petition from 31 drivers is shown in **Annex 3**

1.1.9 A copy of the proposed policy is shown at **Annex 4**

1.2 Background

- 1.2.1 Public safety is the paramount consideration when processing prospective candidate by ensuring only fit and proper persons are licensed to be entrusted to drive members of the public safely, professionally and courteously to and from their required destinations.
- 1.2.2 Furthermore, Hackney Carriage 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. From a safeguarding perspective, the Council needs robust policies in place to ensure, insofar as it can, that these particularly vulnerable categories of people are not put at risk when these transport contracts are undertaken.
- 1.2.3 Licensing Services works within a multi-cultural dynamic customer facing environment where we need to ensure that every applicant knows what is expected from them.

1.2.4 Process steps to develop this policy –2023 - 2028

Consultation agreed at the Licensing and Appeals Committee	5 July 2023
Public Consultation	10 July 2023 – 1 September 2023
Licensing and Appeals Committee	27 September 2023
Full Council adopt policy	24 October 2023
New Policy comes into force	1 December 2023

1.2.5 The Consultation was made available to taxi stakeholders via:

- the Tonbridge & Malling Web Site
- available to view at Council Offices (Tonbridge and Kings Hill)
- handed out to each taxi stakeholder at reception.
- handed out at Waterloo Rank
- Taxi driver meetings at the Council Offices

1.3 Legal Implications

- 1.3.1 Under the Act, the Licensing Authority Statement of Policy will last for a maximum of five years and must be adopted by Full Council. Constitutionally, any new or amended policy has to be considered by the Licensing and Appeals Committee, and its recommendations are carried forward to Full Council.

1.4 Financial and Value for Money Considerations

- 1.4.1 Fee levels for Taxi licences are set by the Licensing Authority. The proposed changes are unlikely to lead to any impact on fee income or additional administrative costs for the authority.

1.5 Risk Assessment

- 1.5.1 The Council has a licensing policy in place for Hackney Carriage and Private Hire drivers. The policy provides a transparent and consistent basis for decision making, which in turn reduces the risk of decisions being successfully challenged in the Courts. The policy by law lapses after 5 years unless reviewed and adopted again. Allowing the policy to lapse would raise a number of risks for consistency in decision making, safeguarding, and an increased risk of court challenges which would also have cost implications for the Council. In any event, policies should be reviewed periodically to ensure they remain up to date with current best practice and take into account changes in legislation and case law.

1.6 Equality Impact Assessment

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

1.7 Recommendations

- 1.7.1 That the proposed changes to the Hackney Carriage and Private Hire policy, attached as Annex 1, be approved.

Background papers:

Existing Policy
Existing Licensing Legislation
Government websites
Institute of Licensing

Contact:

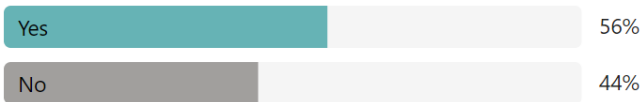
Anthony Garnett 6151
Katie Shipman 6027

Adrian Stanfield
Director of Central Services and Monitoring Officer

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Annex 1

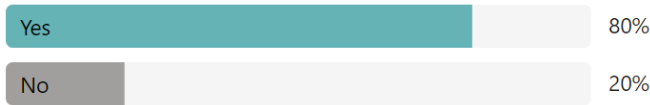
Proposed changes

Ref:	Subject	Recommendation
1	<p>With the increase in electronic card payments for many goods and services, would you like to see all Hackney Carriage journeys being able to be paid for by credit / debit card?</p> <p>Out of the 82 responses received, the feedback was:</p> <p>1. Hackney Carriage Journeys being paid for by Credit / Debit Card - With the increase is...</p>  <p>Concern from Petition of 31 drivers.</p> <p>There were concerns raised about signal coverage in the Borough, however at the drivers meeting, it was reported that as long as you have 4g or 5g you should be fine.</p> <p>The driver can always take cash as they are required to do so and carry sufficient change.</p>	<p>1. That all Hackney Carriage journeys must be able to be paid for by credit / debit card.</p>
2	<p>Outsourcing the Disclosure and Barring Service (DBS) to an external third party.</p> <p>10 drivers showed concern of extra cost. A lot of drivers expel the virtue of the On-line update service, paying yearly.</p> <p>The category for the DBS must be enhanced, and the category on the Certificate must be "Other workforce Taxi driver"</p> <p>Find a DBS umbrella body company - GOV.UK (www.gov.uk)</p>	<p>2. Outsource the Disclosure and Barring Service (DBS) checks to an external third party, where a driver does not hold an online account update service.</p>

Annex 1

Ref:	Subject	Recommendation
3	<p>Reduce the length of time lost property is kept from 12 months to 2 months.</p> <p>The licensing team is proposing to move the minimum period lost property is kept from Twelve months to three months.</p> <p>5. Reduce the length of time lost property is kept from 12 months to 2 months. The licensing team i...</p> <div> <div>Yes</div> <div>99%</div> </div> <div> <div>No</div> <div>1%</div> </div>	<p>3. Reduce the length of time lost property is kept from 12 months to 2 months</p>
4	<p>Making CCTV compulsory in all licensed vehicles (Hackney Carriage or Private Hire)</p> <p>A mixture of views on this topic of making CCTV compulsory in Hackney Carriage and Private Hire vehicles. Petition of 31 drivers indorsed the proposal.</p> <p>There are several issues and concerns to consider:</p> <ul style="list-style-type: none"> • Drivers who have installed them, have installed a variety of different systems. • Some systems record Inside only; some inside and outside. • Different storage times. • All seem to have immediate access to footage. • Different type of camara. <p>6. Making CCTV compulsory in all licensed vehicles (Hackney Carriage or Private Hire) Do you agree?</p> <div> <div>Yes</div> <div>47%</div> </div> <div> <div>No</div> <div>53%</div> </div>	<p>4. No change to current policy</p> <p>Licensing Officers will undertake further research on how other Licensing Authorities are managing CCTV and bring a paper back to a future meeting.</p>

Annex 1

Ref:	Subject	Recommendation
5	<p>Drivers of Hackney Carriage Vehicles Failing to take a passenger on a short journey - Charging more than the Fare shown on the metre when taking Credit / Debit card payments.</p> <p>With a growing number of complaints from members of the public about being refused to be taken on a short taxi journey or being charged more than the Fare shown on the Metre, the Licensing Team are proposing 9 penalty points being imposed on their TMBC driving licence and a two-week suspension. Subsequent offences will be referred to the Licensing and Appeals Committee.</p> <p>There is overwhelming support for this with 80% in favour.</p> <p>Drivers petition of 31 drivers feel we have current measures in place.</p> <p>The Licensing Authority will fully support any driver who refuses to take a fare where extenuating circumstances apply (Drunk, drugs etc.)</p> <p>8. Drivers of Hackney Carriage Vehicles Failing to take a passenger on a short journey - Charging...</p>  <p>Taxi policy guidance on penalty points 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.</p>	<p>5. Any Hackney Carriage driver failing to take a passenger on a journey, however short, or who charges more than the fare shown on the metre when taking payment by credit / Debit card, will have 9 penalty points being imposed on their TMBC driving licence and a two-week suspension.</p> <p>Subsequent offences will be referred to the Licensing and Appeals Committee.</p>
6	<p>Remove membership of the Chauffeurs Guild as mechanism to bypass having to take the knowledge test.</p>	<p>6. Remove membership of the Chauffeurs Guild as mechanism to bypass having to take the knowledge test.</p>

Annex 1

Ref:	Subject	Recommendation
7	<p>Colour of a Hackney Carriage Vehicle should be any colour (13 Comments)</p> <p>Example of comments</p> <ul style="list-style-type: none"> • Used car prices have roughly doubled since pre-COVID. • Hard for us to find suitable vehicles at the right price. • Please allow use to use any coloured car. White and silver are very sought after colours and tend to be more expensive to buy <p>Currently only white and silver allowed.</p>	<p>7. No change to White and Silver, except for designated wheelchair accessible vehicles (WAV) that can be any colour.</p>
8	<p>Accept Manufacturers speck for back windows (6 Comments)</p> <p>Current policy states</p> <p>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.</p>	<p>8. To allow plate exempt vehicles who undertake Chauffer work for back passenger windows can be a higher tint than 50 per cent.</p>
9	<p>Allow Drivers badge for just school runs with specially defined plate (3 Comments)</p> <p>The licensing team process a high number of Vehicles (594) and drivers (619).</p>	<p>9. Members direction sought -</p> <p>Licensing Officers will undertake further research on how the impact of such a Drivers badge just for school runs with specially defined plate would impact on the service.</p>

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With the increase is electronic card payments for many goods and services, would you like to see all Hackney Carriage journeys being able to be paid for by Credit / Debit Card?	Hackney Carriage Journeys being paid for by Credit / Debit Card - With the increase is electronic card payments for many goods and services, would you like to see all Hackney Carriage journeys b...	Hackney Carriage Journeys being paid for by Credit / Debit Card - Are there any comments you want to make?	Increasing the minimum number of Hackney Carriage passengers a vehicle can be licensed for from one to four passengers - We are proposing to move the minimum number of passengers that a Hackney ...	Outsourcing the Disclosure and Barring Service (DBS) to an external third policy - The licensing team currently spends time, completing the DBS application with applicants, checking all requir...	Reduce the length of time lost property is kept from 12 to 2 months. The licensing team is proposing to move the minimum period lost property is kept from Twelve months to three months.	Reduce the length of time lost property is kept from 12 months to 2 months. Making CCTV compulsory in all licensed vehicles (Hackney Carriage or Private Hire) Do you have any comments?	Making CCTV compulsory in all licensed vehicles (Hackney Carriage or Private Hire) Do you agree?	Hackney Carriage Journeys being paid for by Credit / Debit Card - Do you have any comments?	Drivers of Hackney Carriage Vehicles Failing to take a passenger on a short Journey - Charging more than the Fare shown on the metre when taking Credit / Debit card payments. Do you have any comm...	Drivers of Hackney Carriage Vehicles Failing to take a passenger on a short Journey - Charging more than the Fare shown on the metre when taking Credit / Debit card payments. Do you have any additional comments, changes or recommendations to the policy that you would like the Licensing and Appeals Committee to consider?	
Yes		Agreed		I think we need to make it mandatory for drivers to go to the online service but I can see some issues with outsourcing the applications. For instance, if the applicant doesn't apply early enough and doesn't have the certificate back, will we still renew the licence/issue the new badge? At least if we are doing the checks we know for sure it has been done and can hand over the new badge with confidence. I do agree that something needs to happen to take the burden away from the team for chasing DBS certificates.		Yes	I think this would help drivers safety and also give them more confidence when dealing with difficult passengers. I do think we would need to possibly give guidance or training on how to maintain the recording safely and in accordance with ICO guidelines	Yes	Yes I think it should be mandatory to accept card payments. I think the council will need to do some research into the different providers.	Yes	I would question the 12 points, only because our policy states if a driver gets 12 point they need to go to a hearing but I think we are trying to avoid hearings. So it may be better to issue 9 points and then if they commit any other offences it (should) put them over the 12 fares. points meaning they would then need to go to committee. 1. A more definitive set of criteria for Plate exemption. 2. Removal of Chauffeurs Guild - or a more definitive criteria to stop operators abusing it. 3. Introduction of door signs for ALL vehicles displaying the plate number and either "Pre-Book only" for PH and something for HCVL - possibly around not refusing short fares.
No		logical	logical			Yes	All efforts to date have resulted in cheap, unreliable cctv equipment being installed, however the presence of a camera could act as a deterrent to would be attacks on drivers	No	Mobile card readers are notoriously unreliable due usually to lack of connectivity particularly in the Tonbridge outlying districts	Yes	Needs to be enforced The creation of a school run only driver and vehicle license would be beneficial to the industry as a whole
Yes		4 passengers	No kept in house			Yes	I already have the system fitted	Yes	None	Yes	Short or long all the same money
No		Fine	Fine			Yes		Yes	Why it is compulsory? All company charge for that we can't decide our fare it. Meter price does not included that charge. So it's extra burden to driver on rank we don't have enough business. So I request to councils don't put extra burden on us. Cost of living raise and petrol price also increased so please try to understand driver situation. If we allow to charge extra for card payment then it'd fair. Otherwise I think it is not fair to driver. I am very happy to discuss with Anthony about it.	No	Not agree with card payment if not extra charge for card payment. Extra charge mean what ever is card payment company charging to us.
Yes			Great idea,			Yes	Protection from the passengers and false statements being made. Safer all round	Yes	TfL been doing this for years, time we all move forward	Yes	The price you see is the price you pay... would you pay 1.89 a litre for diesel if it was displayed as 1.34?
Yes		Yes this I agree with	Yes I agree			Yes	Yes this will protect Drivers and customers alike	Yes	Drivers using excuses not to take a short trip If by now they don't have a card machine is more than likely there not paying income tax ether some will say they don't have a bank account to take card payment but all drivers in this borough are self Employed and you can't pay your taxes or fill a self assessment with out a bank account	Yes	Yes this happens every day in Tonbridge especially around 23:30 from the Waterloo Road Rank Yes for all Drivers to show proof of Self Employment or Employment by means Of a Tax UTR number that can easily be checked with HRMC
Yes		Its totally fine	Yes, agreed			Yes		Yes	Only when journey is more than £10 because their is fee on every transaction which drivers has to pay. If passenger want to avail this facility they should bear this transaction fee not driver. According to UK law drivers cannot charge transaction fee but atleast council can set minimum fare for card payment.On £5 journey if we pay transaction fee with fuel price than what is the purpose of doing job? If we drivers are brealy making money.	No	Hi, I would suggest not to apply any restrictions on rear passenger windows and rear windscreen because all vehicles comes with manufacturer fitted windows and replacement costs a lot. It will be highly appreciated if manufacturers windows would be allowed regardless of any UV value. However, ban on tinted film(after market) should be ok. Best regards Asif mirza
No		Yes	Yes I agree			Yes	Are these cctv units always on, as my private hire vehicle is also my personal family car, and I do not want my personal life on video?	No		Yes	No
Yes						Yes		Yes	No	No	
Yes		I have no issue with this	I agree that all licence holders should be subscribed to the online service			Yes	This is an unnecessary expense in a relatively problem free area of the country that will discourage people from entering the trade	No	Every vehicle should have an official TMBC supplied notice that should be visible stating that there is no minimum charge, nor that there is any fee for using a card.	Yes	I agree that anyone in breach of this rule should be instantly suspended for 2 weeks, with any further breaches incurring doubling of the suspension each time. After 4 separate suspensions of up to 16 weeks then the driver should have his licence revoked I would like to see the knowledge test scrapped for private hire hire drivers, although all applicants should have a basic knowledge of licensing regulations and requirements. I would also like to see the knowledge test be taken perhaps 6 months after a Hackney driver gets their licence to give them a chance to learn the topography of the area in better details while working.
Yes		Why just leave as is	Will it speed up the process though I applied in October recieved it the following March			Yes	It's another expence to burden the operator with	No	In the modern day there is no excuse for not taking electronic payments except if your trying to hide cash flow	Yes	I would say one month ban minimal

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Yes		No	No problem with this unless it adds any extra expense to the driver		Yes	Definitely not for private hire vehicles as journeys need to be pre-booked so records are kept with all the passenger information keeping the drivers fairly safe. It's too much added expense for private hire drivers. Hackney carriage drivers would benefit from cctv for security, but so lease don't enforce for private hire.	No	No	Yes	Hackney carriage and private hire drivers are totally different and provide very different services so please do not implement the same rules for both
No		This is not a good idea as many customers are single people or tends to be a couple	Yes that sounds like a good idea		Yes	It is expensive and people don't like being on cctv	No	It is costly and the signal doesn't always work . When people's card don't work customers get aggressive with us.	No	Instead of points a fine would be more appropriate
Yes					Yes		No		Yes	Used car prices have roughly doubled since pre-COVID. Having to choose from only white or silver vehicles has always made it very hard for us to find suitable vehicles at the right price and in the right location. Not to mention the national shortage on new and nearly new vehicles. Being able to choose from any colour would help a great deal as it would massively increase the number of cars to choose from nationwide, increasing the chances of finding an appropriate purchase not too expensive or too far away. Restricting HCVs to two colours does has no impact whatsoever on the general public trying to get into a PHV without being pre-booked. Neighbouring boroughs all have different policies on vehicle type, colour and specification. Most of the general public frequently travel between boroughs and cannot be expected to remember what colour/type applies to HCV and PHV respectively in each borough they visit. In fact, most of the general public are completely unaware of the differences between PHV and HCV and the differences in local authority policies and borough boundaries in any case, despite the current colour restrictions on HCVs in TMBC. Many travellers passing through Tonbridge are from out of town, where the policy on vehicle type/colour currently imposed on HCVs.
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Yes					Yes	Yes	No	Yes		Yes
Yes					Yes	Yes	No	Yes		Yes

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Yes					Yes	Yes	No	Yes		Used car prices have roughly doubled since pre-COVID. Having to choose from only white or silver vehicles has always made it very hard for us to find suitable vehicles at the right price and in the right location. Not to mention the national shortage on new and nearly new vehicles. Being able to choose from any colour would help a great deal as it would massively increase the number of cars to choose from nationwide, increasing the chances of finding an appropriate purchase not too expensive or too far away.
No					Yes	Not compulsory	No	Technology insufficient... too many mobile black spots	Yes	Illegal to charge for card use therefore should be clamped down on
Yes			I have been using the update service for a few years now and it's actually cheaper to do your DBS like this		Yes	I think the cost would really be much more than the problem of assaults. If a driver feels vulnerable he should have the choice to install cctv or not.	No	No	Yes	They are ripping off the very people we depend on to give us a living. It should be dealt with more severely
Yes			I have no real comment as am PH driver but unless I'm misunderstanding this the proposed change doesn't make sense? It reads that HC vehicles could refuse a fare if there's less than four passengers?	I subside to the online update service and believe this makes sense for all drivers to be required to subscribe to it as makes everyone's lives easier	Yes	This has to be a driver / operator choice. I know everyone of my customers, who are generally corporate customer and I do not require the benefit of CCTV for any security.	No	I've accepted credit / debit card payments for years and feel if a customer wishes to pay by card the facility should be available	Yes	No
No				This should be kept in-house	Yes		Yes		Yes	Should be 3 strikes and out no ifs no buts lose their license
Yes				Agreed	Yes		Yes		Yes	
Yes			No comment	No comment	Yes	No comment	Yes	No	Yes	No comment
No					Yes		No	It should up to the driver as all the card machine companies charge commissions on card payments	Yes	Hi I think road legal tinted rear windows should be allowed as most of us buy secondhand cars for taxi it's hard to find a car with the all requirements and most Japanese cars comes with factory tinted windows. As you know car prices very high since Covid would be appreciated if you could consider it. Thanks
Yes			Makes sense		Yes	Cctv is another expense the driver will have to pay also will have to pay to transfere it to a new vehicle and will also mean the driver will have to deal with the data.protection people	No	Taking card payment opens you up to more work and ease of payments	No	I dont think someone should lose there license surely.suspension would be sufficient
No			Four passengers as a minimum its ok	By using third party companies my details might be used by people who we dont have control so i would rather to stay the way it is and was	Yes	Depends on type of CCTV as there are designed systems or is if its a simple dual camera one for outside and one for inside ?	Yes	All our cars got card readers however there is no enough signal in borough TMBC even i dont have signal in west malling taxi rank so how can card payment can be mandatory its not possible	Yes	Tinted windows should be aloud for the back no matter if its hackney or private and no matter if its privately upgraded or original as they do the same purpose
No			I'm ok with four people	I'm ok with that	Yes	For the sake of passengers and drivers	Yes	Bank transfers are ok	Yes	The drivers should make sure that the queue for the rank is up when they are waiting for passengers
Yes					Yes		Yes	No driver should be allowed to say the journey is to short to be able to pay by card, or charge the customer 10 for a 5 pound journey on card	Yes	This has to stop
No			Yes	As long as cost kept to minimum	Yes	The outlay for each vehicle	No	There are areas with very poor signal for phones and internet	Yes	Drivers for local school runs to be DBS checked and just able to drive for school runs only Monday to Friday only
Yes				Yes use on- line service	Yes	I think its up to the driver	No		Yes	

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Yes			Well in my experience as a private hire driver there are always passengers who like travelling alone for privacy.			I think with technology available at the moment the camera s or camera would have to be discreet as I think it can aggravate some customers but for the driver s safety yes I agree.	Yes	Convenience for Customers and I believe at present you are on most occasions expected to take card payment s and if you do not I think that the driver would loose a % of work not have the facility	Yes	I have also heard driver s from other companies making what would be a short journey and making them longer journeys by taking them a longer route and charging the longer rate fare per mile mainly for Customers who are clearly not from the area.
Yes			We are Executive Private Hire therefore be impractical to comment	i agree	Yes	We are Executive Private Hire therefore some of our clients require the upmost respect in knowing any delicate business conversations that are conducted whilst in our vehicle are not recorded.	No	We are Executive Private Hire therefore would be impractical to comment	Yes	As our business is solely Executive Private Hire and not Hackney carriage i strongly feel as we are under constant strain for fulfilling potential work and cannot fulfil new cliental requests due to the shortage of drivers as the application process is the same as Hackney Carriage to which a majority of which is irrelevant to the EPH sector. Therefore the probation / mentor policy which was previously in place would be far better for this sector for those concerned.
Yes			I don't know about	Yes it's very good idea	Yes		Yes		Yes	
Yes			All taxis should be of standard size. Cars with small boot for example hatch back should not be allowed.	All drivers should sign up for online DBS update service.	Yes	It should be optional.	No	Yes, if total fare price is atleast £10. Because driver will be charged for every transaction.Low fare jobs with transaction fee is unfair with drivers.	Yes	12 points are too much, also 2 week suspension is too long. Is their any way where driver can prove himself if he is just accused of extra charge due to any unknown reason[hate/ discrimination/ change of destination/ extra luggage (where six seater is required but passenger want you to pay for standard car)?
No			Agreed	No objection	Yes	N/A	No	People often don't remember their PIN and even lie about having money in their accounts and end up having their payments declined at the end of their journeys. They make up stories, lie, get aggressive and even run away. Cash payments are the only suitable option in this trade.	No	The proposed measures are too harsh and unnecessary.
Yes					Yes		No		Yes	School run only badges Start Dbs checks at the start of a driver application
No			As most of the vehicles have four passenger seats this proposal is reasonable.	Okay and reasonable	Yes	Maintains cost goes up.	No	Most of the places get Network issue, due to this card get declined. Most of the customers become annoyed and blame that card machine is not working properly. Where this is not true. There are various caveats to it: 1 - poor signals in various areas around the Borough which means we can't process the payments because the payment apps are Bluetooth based and not hard-wired in the Cabs. 2 - people say they will pay at the end of their journeys but their cards often decline, don't have funds in their accounts, short change the drivers, don't remember their PIN especially when drunk, get aggressive & abusive with the drivers and even do the runners. Police never come to help even if the drivers life is at stake.	Yes	£500 fine and 6-12 point is fair enough.
No			No objection	No objection	Yes	It's a extra business cost. I do not mind as long as we get incentives from the council.	No	Cash payments upfront are the best options in this trade.	No	N/A Cards payments should not be the only option for the payment as it will cause a huge level of problems for all the drivers. Car spoilage charges should be revised with a minimum of £300, to prevent people being sick in a car. We atleast face a loss of two days earning when someone sick or relieved in a car. Police do not provide any support to us. We need a separate helpline in case we have any trouble with passengers so we could feel safe.
No			I am okay with this policy.	Ok with this one.	Yes	This should not be mandatory as many people don't like being recorded and also the cctv lots of times have technical issues so it can cause trouble for drivers.	No	Because of the bad coverage area we have to let go many people without getting payments as they know everyone pays with cards these days. This should never be mandatory as it will result in to many journeys not being paid off.	No	Penalty should not be more than 2 points. Proposal seems to be too harsh. The driver should be given a change to explain the circumstances on his side as well, instead of one way story. Even if he found guilty the penalty should not be more than 2 points.

With the increase is electronic card payments for many goods and services, would you like to see all Hackney Carriage journeys being able to be paid for by Credit / Debit Card?	Hackney Carriage Journeys being paid for by Credit / Debit Card - With the increase is electronic card payments for many goods and services, would you like to see all Hackney Carriage journeys b...	Hackney Carriage Journeys being paid for by Credit / Debit Card - Are there any comments you want to make?	Increasing the minimum number of Hackney Carriage passengers a vehicle can be licensed for from one to four passengers - We are proposing to move the minimum number of passengers that a Hackney...	Outsourcing the Disclosure and Barring Service (DBS) to an external third policy - The licensing team currently spends time, completing the DBS application with applicants, checking all requir...	Reduce the length of time lost property is kept from 12 to 2 months. The licensing team is proposing to move the minimum period lost property is kept from Twelve months to three months.	Reduce the length of time lost property is kept from 12 months to 2 months. Do you have any comments?	Making CCTV compulsory in all licensed Hackney Carriage or Private Hire) Do you agree?	Hackney Carriage Journeys being paid for by Credit / Debit Card - Do you have any comments?	Drivers of Hackney Carriage Vehicles Failing to take a passenger on a short journey - Charging more than the Fare shown on the metre when taking Credit / Debit card payments. Do you have any comm...	Drivers of Hackney Carriage Vehicles Failing to take a passenger on a short journey - Charging more than the Fare shown on the metre when taking Credit / Debit card payments. Do you have any additional comments, changes or recommendations to the policy that you would like the Licensing and Appeals Committee to consider?
Yes			Taxi Meeting - 27 July 2023 No issues raised	Taxi Meeting - 27 July 2023 No issues raised		Yes		Taxi Meeting - 27 July 2023 Should be compulsory Concern over coverage within District - Discussion is if you have 4G then you are fine Reported charge for payment is 1% (Castle Cars) 33 Driver Petition issues Highly controversial issue difficulties to process payments Concern about lack of Secure network Discussion - you will still need to carry cash some drivers give bank details to passengers to make bank transfers Card payments should be optional - but all vehicles should be able to take cards payments Rent can be £15 a month for 4G Charges of 2.5% on PayPal Card Machine - Sumup 1.69%		Discussion on a Drivers own badge for school runs only with specially defined plate for a licensed vehicle dedicated to school runs only - General acceptance of this - With drivers not undertaking knowledge test. Concern was shared of people just wanting to do school runs and not wanting to go back to the classroom to learn a lot of routes they will not use. SIGNS SHOWING WHERE TAXI RANK IS OUTSIDE TONBRIDGE STATION / CONCERN OVER DOUBLE YELLOW LINES / LIDL LORRIES UNLOADING ON WATERLOO ROAD OPPOSITE TAXI RANK These concerns will be discussed with TMBC Engineering and KCC AIR CONDITION Make Air Condition compulsory COLOUR OF VEHICLES Concern over White / Silver cars getting harder to fond, with second hand market vehicles at very high prices. Request for any colour for vehicles Private hire can have door stickers on them with "Pre
										Email received from Hi my name is ashraful Islam.I think the poroposal for the car tinted window must allowed.most of driver purchased second hand car and most car come with factory fitted tinted window .car price is really high.I think we should be allowed for tinted window for car. Thank you for understanding my coment
										I feel that the proposed suggestions are fair and reasonable. One thing that has not been mentioned is that I would like to see ALL COLOUR of cars to be able to be Hackney Vehicles. In Sevenoaks they allow ANY COLOUR car to be allowed to go on the rank. This makes sense as I know drivers denied silver cars as it is the wrong shade of silver. This has been very costly to the driver and if silver is stated on the log book then it should be allowed to be a Hackney Vehicle. There is also a shortage when trying to buy a white or silver vehicle often having to travel several hundred miles away just to buy a car of a specific colour. If this is passed it will save drivers a lot of money and be a lot easier to buy a car of their choice and quickly.
										I personally have no comment against these ideas. From Gary at J AND L CARS
Yes	No		EmploymentCheck are part of the wider Commercial Services Group (wholly owned by Kent County Council) We have a vast amount of experience in this area as we have been a registered body since 2002 and E-broker since day 1 of e-bulk (2012) We have developed an online system for processing DBS checks and we are an e-broker serving over 30 other Local Authorities. We also service hundreds through our Umbrella Body service and would welcome discussing your requirements to implement an online system.		Yes	Isn't needed and an added cost to the driver	No	No	Yes	Punish drivers that are greedy / refuse to take passengers with suspension No
Yes					Yes		Yes		Yes	
Yes					Yes		Yes		Yes	
No			What about single people travelling? we take a lot of business men on their own.		Yes		No	Not everyone has a card, and this can cause discrimination against those who do not have a card.	No	credit card machines cost the driver. Over several journeys, this will cost them a lot of money, which is not fair. they should be allowed to charge enough to cover what they are being charged by credit card company

Tonbridge 19th July 2023

Dear Licensing Team.

We TMBC Taxi Stakeholders would like to give feedback for proposed changes on Hackney Carriage and Private Hire Policy related to CCTV in all licensed vehicles, payment by cards and Penalty Points System.

Making CCTV compulsory in all licensed vehicles (Hackney Carriage and Private Hire) is absolutely good idea and should be introduced on a new a new policy.

Mandatory for Hackney Carriage Drivers to take payment by cards seems to be highly controversial issue because of difficulties to process payment within or outside of the borough, which was confirmed by Licensing Authority last year when we received a message: Not a mandatory requirement for card payment facility. To process payments, there needs to be a secure internet connection (either Wi Fi or mobile phone), in some of the areas in and around Tonbridge & Malling Borough Council, this is limited.

Since that time, we haven't noticed any improvement in this matter.

We fail to process a card payment near Hildenborough Station Westbound (Philpots Lane area, the other side of A21), Poult Wood Golf Course, Higham Lane, Tonbridge, and from there towards Dunks Green and Plaxtol and further on. Same in a centre of Hadlow, Wrotham Heath and in a many more places.

Surrounding areas as well for example Penshurst or Brenchley .

The only way in independent drivers case to sort it out is take a phone number to the customer and send bank account details asking to transfer the fare on bank account,

or try to establish connection to home Wi Fi,

or drive around the area trying to get a decent mobile phone signal to process the payment.

The company drivers if card payment is impossible can call company and process payment, giving 16-digit card number and other details.

We can face potential chaos and frustration in many areas, especially during the end of the night shift, which is very uncomfortable for busy sometimes exhausted taxi drivers.

Therefore, card payment should be still optional, but all taxi drivers should be equipped in card payment facility.

There are also cases when card payment is declined by bank or annoyed customer when card payment failing jumping out from a cab refusing any collaboration leaving unpaid fare, saying: It's not my problem.

We would like mention that there is a charge which is 2.75% on PayPal Card Machine If there were all card payments over a year period that charge is equal to week and half to work it out. In a case of SumUp 1.69 % its one working week in a year and payment is not available earlier than next day, even much longer.

Current Penalty Points Tariff say: Refusal to take a fare without a reasonable excuse is Level 2 – £500 fine and between 6-12 points on a Drivers Badge, which is fair enough and give Licensing Authority enough power to tackle the issue.

Few years ago, we had very good opinion about quality of our work sent to us by Anthony Garnet on a Christmas time, and we still fit and perform very well. Taxi Stakeholders know how to run their own business and its obvious that overcharging is illegal and immoral.

We've got enough change as well.

If there are bad opinions about our performance they are very rare.

Vast majority of our customers are entirely happy and appreciate our service.

Yours sincerely.

TMBC Taxi Stakeholders signed below.

Name and Surname

Badge Number

1582

3001

3065

21

343

1558

364

255

814

813

711

802

811

116

34

110

3063

391

81

3046

49

1255

1473

1837

755

109

3027

2052

Name and Surname



Badge Number

1108

Name and Surname



Badge Number

249

1025

Tonbridge and Malling Borough Council Hackney Carriage and Private Hire Licensing Policy 2023 - 2028



Overview

Policy

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1 Introduction

1.1 Adoption of private hire licensing provisions

- 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.
- Tonbridge and Malling Borough Council will have regard to this policy and the Institute of Licensing “Guidance on determining the suitability of applicants and licensees in the hackney and private hire trades – April 2018” (A copy is available on the Councils website)

1.2 Process steps to develop this policy –2023 - 2028.

Consultation agreed at the Licensing and Appeals Committee	5 July 2023
Public Consultation	10 July 2023 – 1 September 2023
Licensing and Appeals Committee	27 September 2023
Full Council adopt policy	24 October 2023
New Policy comes into force	1 December 2023

1.3 Key changes to previous policy

- That all Hackney Carriage journeys should be able to be paid for by credit / debit card
- That the minimum number of Hackney Carriage passengers a vehicle can be licensed for from one to four passengers.
- Outsource the Disclosure and Barring Service (DBS) checks to an external third party, where a driver does not hold an online account update service.
- Reduce the length of time lost property is kept from 12 months to 2 months
- Any Hackney Carriage driver failing to take a passenger on a journey, however short, or who charges more than the fare shown on the metre when taking payment by credit / Debit card, will have 9 penalty points being imposed on their TMBC driving licence and a two-week suspension. Subsequent offences will be referred to the Licensing and Appeals Committee.
- For applications for Plate exempt the Private Hire Operator must demonstrate that have proof from their bookings log that they run contracts with Government, executives, private sensitive clients (Hospitals etc.)
- Remove membership of the Chauffeurs Guild as mechanism to bypass having to take the knowledge test.
- To allow plate exempt vehicles who undertake Chauffer work for back passenger windows to be a higher tint than 50 per cent.

1.4 Licensing of drivers and vehicles

- 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.
- 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.
- Hackney carriage and private hire licensed drivers undertake school contracts with Kent County Council, transporting young children, people with disabilities and vulnerable people.
- Public safety is a paramount consideration when processing application forms for 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.

Overview

- All licence drivers are required to undertake Child Sexual Exploitation and Safeguarding Training and Disability equality training.
- It is strongly recommended that back-office staff are encouraged to undertake the online safeguarding training.
- Full details of the current provider are shown on the Council website.
- All Hackney Carriage, Private Hire or Dual Driver licence holders are required to have an enhanced Disclosure & Barring Service (DBS) check on applying and renewing their badge, using the level of "Taxi Driver", "Other Workforce"
- It is encouraged that every licensed driver applicant to hold and maintain an on-line Certificate through The Update Service (Details show at 4.7).
- **Whistleblowing policy** - Tonbridge & Malling Borough Council has a Whistleblowing policy, which latest version is dated the 31 January 2022. which can be found at <https://democracy.tmbc.gov.uk>

1.5 Appraising the current Licensing Services for Taxis

- 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 Service Aims

- 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.

1.7 Legislative framework

- 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.

Overview

- 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
 - Taxis and Private Hire Vehicles (Safeguarding and Road Safety) Act 2022

1.8 Delegations

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

1.9 Background to Policy

- 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.
- The policy is revised every five years to reflect current working practices, legislative changes, new case law, local governance and needs of the community.

1.10 Best Practice Guidance

- 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.
- 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.

Overview

- 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.
- 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.
- TMBC emails all drivers with any changes to working practices.
- A copy of the latest version published on the 28 March 2022 is shown at [Taxi and private hire vehicle best practice guidance - GOV.UK \(www.gov.uk\)](#)

1.11 Council's Vision and Values

- 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.
- A copy of the Council's Corporate strategy can be viewed at :
[Corporate strategy 2023 to 2027 – Tonbridge and Malling Borough Council \(tmbs.gov.uk\)](#)

1.12 Objectives

- 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.
- The aim of the licensing process in this context is to regulate the hackney carriage and private hire trade 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 public.

Overview

- 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.
- 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.
- This policy helps to promote efficient and effective approaches to regulatory inspection and enforcement, which improve regulatory outcomes without imposing unnecessary burdens. This is also in accordance with the Regulator's Compliance Code. However, despite the existence of this policy, each application or enforcement measure shall be considered on its own merits.
- In certain instances, we may conclude that a provision in the policy or code is either not relevant or is outweighed by another provision. We will ensure that any decision to depart from the policy or code will be reasoned, based on material evidence, and documented giving clear and compelling reasons for so doing.
- The Council acknowledges that the current fleet of hackney carriages and private hire vehicles and drivers set a reasonable standard of appearance and performance.
- 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.

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 vehicles 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 vehicles 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 considered.
- 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 are available to those with mobility difficulties 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.

- 3.4.5 The Blue Badge is linked to you rather than a vehicle, so you can use it with any car. This includes taxis and hire cars that you're driving, or travelling in as a passenger.. Further details can be viewed at [Using your Blue Badge - Citizens Advice](#)

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

Vehicles

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

Vehicles

- 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 a restriction on the minimum number of seats to allow applications for vehicles with room for four passengers.
- 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 applying an original certificate needs to be sent in by email.
- 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.

Vehicles

- 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 Special Events Vehicles will normally be exempted from displaying a plate automatically due to the nature of the work they will be undertaking.
- 3.13.4 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.

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.

Vehicles

- 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.

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.

Vehicles

- 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.

- 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 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 and the fee has been paid.

3.29 Grant and Renewal of Licences

- 3.29.1 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.
- 3.29.2 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.
- 3.29.3 When submitting renewal applications, applicants should be aware that it may take up to seven 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.

3.30 Applicant Suitability

- 3.30.1 Tonbridge and Malling Borough Council will have regard to this policy and the Institute of Licensing “Guidance on determining the suitability of applicants and licensees in the hackney and private hire trades – April 2018” (A copy is available on the Councils website)

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 3 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, depending on the condition of the items.

4 Drivers

4.1 Licences

- 4.1.1 This Council issues hackney carriage, dual and private hire driver licences.

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.
- 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 always remains correct. 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. In addition, the test covers basic maths and an understanding of English.
- 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 reasonably 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.
- 4.6.4 An **Enhanced DBS check is required** on applying and renewing their badge, using the level of **“Taxi Driver”, “Other Workforce”**

4.7 The Update Service

- 4.7.1 It is strongly advised that 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.
- 4.7.10 **Referrals to the Disclosure and Barring Service and the Police**
- 4.7.11 In some circumstances it may be appropriate under the Safeguarding Vulnerable Groups Act 2006 for licensing authorities to make referrals to the DBS. A decision to refuse or revoke a licence as the individual is thought to present a risk of harm to a child or vulnerable adult, should be referred to the DBS. The power for the licensing authority to make a referral in this context arises from the undertaking of a safeguarding role.
- 4.7.12 The Department for Transport recommends that licensing authorities should make a referral to the DBS when it is thought that:
- an individual has harmed or poses a risk of harm to a child or vulnerable adult;
 - an individual has satisfied the 'harm test' ; or
 - received a caution or conviction for a relevant offence and;
 - the person they are referring is, has or might in future be working in regulated activity; if the above conditions are satisfied, the DBS may consider it appropriate for the person to be added to a barred list.
- 4.7.13 These referrals may result in the person being added to a barred list and enable other licensing authorities to consider this should further applications to other authorities be made.

4.8 National Register (NR3)

- 4.8.1 The Local Government Association (LGA) has commissioned the development of a national register of hackney carriage and PHV driver licence refusals and revocations, the 'National Register of Refusals and Revocations'.
- 4.8.2 The new register will allow licensing authorities to record details of where a hackney carriage or PHV drivers' licence has been refused or revoked, and allow licensing authorities to check new applicants against the register.
- 4.8.3 Tonbridge & Malling Borough Council are members and actively use the NR3 Taxi Licence Database

4.9 Multiagency Safeguarding Hubs

- 4.10 **Tonbridge & Malling Borough Council** operate or establish a means to facilitate the objectives of a MASH (i.e. the sharing of necessary and relevant information between stakeholders). As has been emphasised throughout this document, one of the most effective ways to minimise the risk to children and vulnerable adults when using taxis and private hire vehicles is to ensure that decisions on licensing individuals are made with the fullest knowledge possible.

4.11 Relevance of Convictions and Cautions

- 4.11.1 A guide to the relevance of previous convictions, cautions and fixed penalty notices is in **Appendix D**.
- 4.11.2 The Council will consider each application on its merits having regard to this policy.
- 4.11.3 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 may refer the person to the Licensing and Appeals Panel for decision.
- 4.11.4 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.
- 4.11.5 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.
- 4.11.6 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.
- 4.11.7 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. This document must be translated into English.
- 4.11.8 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.
- 4.11.9 Tonbridge and Malling Borough Council will have regard to this policy and the Institute of Licensing “Guidance on determining the suitability of applicants and licensees in the hackney and private hire trades – April 2018” (A copy is available on the Councils website)

4.12 Immigration Check

- 4.12.1 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.

4.13 Grant and Renewal of Licences

- 4.13.1 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.
- 4.13.2 The application procedure is set out in **Appendix C**.
- 4.13.3 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.
- 4.13.4 The licence fees payable are subject to periodic review. Whilst the fees are set by the Licensing Authority they will be published in a local newspaper 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.

4.14 Conditions of Licence

- 4.14.1 The Licensing Authority is not empowered to attach conditions to a hackney carriage driver, other than through Byelaws.
- 4.14.2 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**.
- 4.14.3 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.

4.15 Code of Good Conduct

- 4.15.1 The standards expected of licensed drivers are set out in the Code of Good Conduct, included in this policy document at **Appendix H**
- 4.15.2 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.
- 4.15.3 Repeated breaches following such advice or warnings may lead to more serious consequences including, if necessary, non-renewal, suspension or revocation of licences.

- 4.15.4 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 Basic DBS check for vehicles/operator licences held by companies require any partner or director of the company must have had a basic DBS carried out if they are not licensed as a driver.
- 5.3.3 References from non-family members can also provide some assurance of the suitability of the applicant's character and ability to hold an operator's licence covering, for example, the applicant's financial records and/or business history; therefore all applications will require two references on the initial application.

5.4 Applicants Suitability

- 5.4.1 Tonbridge and Malling Borough Council will have regard to this policy and the Institute of Licensing “Guidance on determining the suitability of applicants and licensees in the hackney and private hire trades – April 2018” (A copy is available on the Councils website)

5.5 Conditions

- 5.5.1 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.

5.6 Record Keeping

- 5.6.1 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.
- 5.6.2 Operators must keep records in respect of all bookings, vehicles and drivers for a period of one year. Full details in **Appendix I**
- 5.6.3 Such records are to be made available to any authorised officer of the Council or a police officer upon request.

5.7 Insurance

- 5.7.1 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.
- 5.7.2 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.

5.8 Licence Duration

- 5.8.1 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.
- 5.8.2 An Operator’s Licence issued by Tonbridge and Malling Borough Council will last for five years.

5.9 Address from which an Operator may operate

Operators

- 5.9.1 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.
- 5.9.2 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

Fares and Fees

- 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.
- 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, regarding 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.

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 further use of the

Disciplinary and Enforcement Measures

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 compliance with the conditions and serves as an "early warning" system to drivers

Disciplinary and Enforcement Measures

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**

Discipline and Enforcement Measures

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

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

8.1 General Construction

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

8.2 Age

- 8.2.1 When first licensed, all vehicles must be less than six years old from the date of first registration.
- 8.2.2 Saloon, estate, hatchback, or multi-passenger type hackney carriages/private hire vehicles, may be licensed for a maximum of ten years from the date of first registration, subject to six-monthly testing by one of the Council's authorised garages. Each six-monthly test requires the vehicle to obtain a "Compliance Pass Certificate".
- 8.2.3 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.
- 8.2.4 Vehicles meeting this requirement may be licensed until such time as the above requirements cannot be achieved. At such a time, the vehicle will 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.

8.3 Body and Vehicle Colour

- 8.3.1 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.
- 8.3.2 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.
- 8.3.3 If in the opinion of an authorised officer the colour of the vehicle is not white or silver the vehicle will not be licensed.
- 8.3.4 In the case of a private hire vehicle any colour is permitted.

Vehicle Specifications

- 8.3.5 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.
- 8.3.6 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
- 8.3.7 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.
- 8.3.8 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.

8.4 Windows

- 8.4.1 Private hire and Hackney carriage vehicles must have at least 75 per cent of light passing through the front windscreen, 70 percent through both front side facing windows, and 50 per cent through all other side facing windows.
- 8.4.2 Plate exempt vehicle who undertake Chauffeur work can have back passenger windows at a higher tint than 50 per cent.
- 8.4.3 Vehicles must have windows at the side and rear with ventilation being provided for passengers
- 8.4.4 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.

8.5 Steering

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

8.6 Tyres

- 8.6.1 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.
- 8.6.2 Run-flat tyres are acceptable on licensed vehicles.
- 8.6.3 'Space-saver' spare tyres are acceptable on licensed vehicles if they conform to the Original Manufacturers' Specification.
- 8.6.4 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.

- 8.6.5 Original Manufacturers' Specification 'tyre repair kits/compressor' are permitted within licensed vehicles provided they comply with the relevant British Standards.
- 8.6.6 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.
- 8.6.7 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.
- 8.6.8 The vehicle must be fitted with an efficient suspension system so designed and constructed that there is no excessive roll or pitch.

8.7 Fuel Tank

- 8.7.1 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.

8.8 Seats

- 8.8.1 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.
- 8.8.2 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.

8.9 Luggage

- 8.9.1 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.
- 8.9.2 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.

8.10 Ventilation

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

Vehicle Specifications

8.11 Fire Extinguisher

- 8.11.1 Preferred

8.12 First Aid Equipment

- 8.12.1 Preferred

8.13 Communication Devices

- 8.13.1 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>
- 8.13.2 All radio equipment fitted to the vehicle must be fitted securely and safely in accordance with guidelines set out by Ofcom.
- 8.13.3 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.
- 8.13.4 The use of a Citizen Band (CB) transmitter or receiver is prohibited.
- 8.13.5 The use of radio-scanning devices is prohibited and such devices must not be fitted or carried in the vehicle.

8.14 Mobile Telephones

- 8.14.1 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.

8.15 Identification Plates

- 8.15.1 Hackney carriages and private hire vehicles are required to **permanently display** licence plates externally on the rear of the vehicle.
- 8.15.2 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.
- 8.15.3 External and internal plates remain the property of Tonbridge & Malling Borough Council and must be returned once expired, surrendered, suspended or revoked.
- 8.15.4 Lost plates must be reported within 24 hours or the next working day following a weekend. Lost plates must be replaced before licensed vehicles can continue to work.

Vehicle Specifications

8.16 Insignia

- 8.16.1 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.
- 8.16.2 Private Hire Vehicles required to display permanently affixed signage to the front side doors of the vehicle showing the plate number.
- 8.16.3 Plate Exempt Private Hire vehicles, Limousines and Special Events Vehicle will be exempt from displaying door insignia.

8.17 Fittings

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

8.18 Seat Belts

- 8.18.1 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.

8.19 Alteration of Vehicle

- 8.19.1 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.
- 8.19.2 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.

8.20 Maintenance and Condition of the Vehicle

- 8.20.1 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).
- 8.20.2 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.

Vehicle Specifications

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

- 8.20.3 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.
- 8.20.4 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.
- 8.20.5 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.
- 8.20.6 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.

8.21 Smoking

- 8.21.1 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
- 8.21.2 No smoking or the use of E-Cigarettes and Vaping devices is permitted in licensed vehicles by Passengers or Drivers.

8.22 Disability Access

- 8.22.1 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.

Vehicle Specifications

- 8.22.2 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 a licence is issued. Any such equipment must be maintained in good working order and be available for use at all times.
- 8.22.3 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.

8.23 Assistance Dogs

- 8.23.1 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.
- 8.23.2 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.
- 8.23.3 Any other driver who fails to comply with the duty is guilty of a criminal offence and liable, on summary conviction, to a fine of up to £1,000.
- 8.23.4 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.

8.24 Taximeters – Hackney Carriage Vehicles

- 8.24.1 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.
- 8.24.2 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)

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- 8.24.3 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.
- 8.24.4 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
- 8.24.5 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.
- 8.24.6 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 affected. 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.

8.25 Taximeters – Private Hire Vehicles

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

8.26 Roof Sign – Hackney Carriage Vehicle

- 8.26.1 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
- 8.26.2 The roof sign and lettering shall be of an appropriate size to enable it to be clearly identifiable to the public.
- 8.26.3 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.
- 8.26.4 The roof sign, other than those built-in to the vehicle, must be mounted on the roof and be adequately secured.
- 8.26.5 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

9 APPENDIX B

9.1 ADDITIONAL CONDITIONS FOR PRIVATE HIRE LIMOUSINES AND SPECIAL EVENTS VEHICLES

9.2 Stretched Limousines

9.3 Definition

9.3.1 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.

9.4 Licensing Conditions

9.4.1 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.

9.5 Left-Hand Drive

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

9.6 Seating

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

9.7 Roadworthiness

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

9.8 Insurance

9.8.1 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

9.9 Tyres

- 9.9.1 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.

9.10 Vehicle Testing

- 9.10.1 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.

9.11 Carrying of Passengers

- 9.11.1 All limousines licensed as private hire vehicles must reduce their seating capacity to a maximum of eight passengers.
- 9.11.2 Passengers shall not be permitted to be carried on any seats in the driver's compartment.
- 9.11.3 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.

9.12 Advertising

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

9.13 Seat Belts

- 9.13.1 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.
- 9.13.2 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.

9.14 Provision of Alcohol

- 9.14.1 Alcoholic drinks may only be provided in the vehicle when the vehicle is complying with all relevant requirements of the Licensing Act 2003.
- 9.14.2 Alcohol shall only be served whilst the vehicle is stationary. Whilst the vehicle is in motion, all receptacles containing alcohol shall be securely stored.
- 9.14.3 Persons under the age of 18 must not be served alcohol.
- 9.14.4 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

9.15 Provision of Entertainment

- 9.15.1 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.
- 9.15.2 The limousine proprietor shall ensure that a Performing Rights Society (PRS) Licence and Phonographic Performance Licence (PPL) are held for the vehicle, where appropriate.
- 9.15.3 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.

9.16 Luggage

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

9.17 Safety Hammer

- 9.17.1 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.

9.18 Driver and Operator Licensing Requirements

- 9.18.1 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.
- 9.18.2 All bookings for a limousine licensed as a private hire vehicle must be booked through the licensed private hire operator.
- 9.18.3 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.
- 9.18.4 All drivers and operators of limousines licensed as private hire vehicles are required to satisfy all appropriate requirements of this Policy.

9.19 Vehicle Testing Stations

- 9.19.1 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.

9.20 Special Events Vehicles

- 9.20.1 Unless specifically stated otherwise below, all requirements relating to the licensing of private hire vehicles apply to Special Events Vehicles. The requirements below are additional requirements specifically for Special Events Vehicles licensed as private hire vehicles.

Stretch Limousine Vehicles and Special Event Vehicles

9.20.2 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.

9.20.3 The ability to licence a vehicle as a Special Events Vehicle will be restricted to those defined in 8.20.2. Mass produced saloon cars or wheelchair accessible vehicles will be required to be licensed under the normal Hackney Carriage and Private Hire requirements.

9.21 Age of the vehicle

9.21.1 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.

9.21.2 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.

9.22 Vehicle Standards

9.22.1 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.

9.22.2 Left hand drive vehicles will be permitted,

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

9.22.4 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.

9.22.5 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.

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

9.23 Special Events Vehicle Conditions

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

9.23.2 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.

Stretch Limousine Vehicles and Special Event Vehicles

- 9.23.3 The vehicle shall be maintained in a sound mechanical and structural condition at all times.
- 9.23.4 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.
- 9.23.5 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.
- 9.23.6 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.
- 9.23.7 In any advertisement publicising a limousine service, the advertisement must state that the vehicle is only licensed to carry eight passengers.
- 9.23.8 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.
- 9.23.9 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.

9.24 Limitations of Use

- 9.24.1 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.
- 9.24.2 Records of all work undertaken by a Special Events Vehicle must be recorded on the Private hire Operators Licence.
- 9.24.3 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.
- 9.24.4 Drivers of Special Events Vehicle are required to observe a formal dress code or appropriate attire for the nature of the vehicle.
- 9.24.5 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 officer, to comply with these requirements and all of the criteria set out in these conditions.
- 9.24.6 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

10 APPENDIX C

10.1 VEHICLES

10.2 New licences and renewal licences

10.2.1 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

10.2.2 There is a requirement for Basic DBS check for vehicle proprietors who do not hold a licence to driver a PH/HC vehicle.

10.2.3 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.

10.2.4 The relevant fee must also be paid.

10.2.5 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.

10.2.6 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.

10.2.7 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.

10.3 Replacement Vehicle - existing hackney carriage or private hire vehicle

10.3.1 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

Application procedure - Vehicles

supporting documents as detailed above must be submitted. A test voucher will then be issued and following a successful pass, a temporary licence plate will be issued.

- 10.3.2 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.
- 10.3.3 There will an administration fee charged for this process which takes into account the supply of a new vehicle plate.
- 10.3.4 This service will only be undertaken through an approved replacement vehicle company specified by the proprietor's insurance company.

10.4 Transfer of an existing hackney carriage or private hire vehicle

- 10.4.1 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.
- 10.4.2 A fee will be charged for this application.

Application procedure - Driver

11 APPENDIX D

11.1 Driver's application

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

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

11.1.2 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.

11.2 New Drivers

11.2.1 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

Application procedure - Driver

the UK. **A Home Office check will be carried out if an authorised officer deems it necessary under the Immigration Act 2016.**

- **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.

- 11.2.2 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.

11.3 Drivers renewing licences.

- 11.3.1 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.

- 11.3.2 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

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

11.4 Private Hire Operators

- 11.4.1 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.

11.5 Applications general

- 11.5.1 If the application form contains any details to suggest that any relevant convictions or cautions have been imposed on the applicant since the licence was last issued or renewed, an authorised officer will discuss the matter with the applicant.
- 11.5.2 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.
- 11.5.3 In both cases, the DBS check will be applied for before any further consideration of the application.
- 11.5.4 When the DBS check has been returned, the application will be considered in the light of the information provided. It is therefore necessary to ensure that details of ALL convictions and cautions are provided at the initial stage. A serious view will be taken of any application which seeks to conceal any caution or conviction in order to obtain a Licence. This will lead to automatic referral to the Licensing & Appeals Panel for consideration as to whether the applicant is a 'fit and proper person'. Applications will normally be refused where an applicant has sought to conceal information on their application form.
- 11.5.5 Tonbridge and Malling Borough Council will have regard to this policy and the Institute of Licensing "Guidance on determining the suitability of applicants and licensees in the hackney and private hire trades – April 2018" (A copy is available on the Council's website)
- 11.5.6 Any information relating to criminal background will only be kept as long as it is necessary for assessment purposes.
- 11.5.7 In the event of an application being refused the applicant has the right of appeal to Magistrates' Court, such appeal to be lodged within 21 days of the decision being notified.
- 11.5.8 **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/**

Application procedure - Driver

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 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.

12 APPENDIX E

12.1 GUIDELINES RELATING TO THE RELEVANCE OF PREVIOUS CONVICTIONS

12.2 General Policy

- 12.2.1 Each case will be decided on its own merits.
- 12.2.2 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.
- 12.2.3 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.
- 12.2.4 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 48 hours of arrest
- 12.2.5 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.
- 12.2.6 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.
- 12.2.7 For the purpose of these guidelines formal cautions and endorsed fixed penalties shall be treated as though they were convictions and must be disclosed.
- 12.2.8 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.
- 12.2.9 Tonbridge and Malling Borough Council will have regard to this policy and the Institute of Licensing "Guidance on determining the suitability of applicants and licensees in the hackney and private hire trades – April 2018" (A copy is available on the Council's website)
- 12.2.10 Any offence not mentioned in this section, that is shown on a DBS Certificate, which causes concern over the applicant's suitability, may be referred to a Licensing Hearing. This relates to licensed Hackney Carriage Drivers, Private Hire Operators, or Private Hire Drivers.

Previous Convictions

12.3 Offences of Dishonesty

- 12.3.1 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.
- 12.3.2 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.
- 12.3.3 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.
- 12.3.4 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 **7** years prior to the date of the application.

Previous Convictions

12.4 Violence

- 12.4.1 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.
- 12.4.2 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.

- 12.4.3 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.

Exception - Crimes resulting in death Where an applicant or licensee has been convicted of a crime which resulted in the death of another person or was intended to cause the death or serious injury of another person they will not be licensed.

Previous Convictions

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

Common assault / Battery	Criminal Justice Act 1988 Section 39
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 **10** years prior to the date of application.

12.5 Drugs

- 12.5.1 Where an applicant has any conviction for, or related to, the supply of drugs, or possession with intent to supply or connected with possession with intent to supply, a licence will not be granted until at least 10 years have elapsed since the completion of any sentence imposed.
- 12.5.2 Where an applicant has a conviction for possession of drugs, or related to the possession of drugs, a licence will not be granted until at least five years have elapsed since the completion of any sentence imposed. In these circumstances, any applicant may also have to undergo drugs testing for a period at their own expense to demonstrate that they are not using controlled drugs.

Previous Convictions

12.6 Drunkenness not in a motor vehicle

- 12.6.1 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.
- 12.6.2 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.

12.7 Sexual Offences

- 12.7.1 Where an applicant has a conviction for any offence involving or connected with illegal sexual activity, a licence will not be granted.
- 12.7.2 In addition to the above, the licensing authority will not grant a licence to any applicant who is currently on the Sex Offenders Register or on any barred list.

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

Exploitation

- 12.7.3 Where an applicant or licensee has been convicted of a crime involving, related to, or has any connection with abuse, exploitation, use or treatment of another individual irrespective of whether the victim or victims were adults or children, they will not be licensed. This includes slavery, child sexual abuse, exploitation, grooming, psychological, emotional or financial abuse, but this is not an exhaustive list.

Previous Convictions

12.8 Motoring Convictions

12.8.1 Major Traffic Offences

12.8.2 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.

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

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

MAJOR TRAFFIC OFFENCES

12.8.5

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

12.9 Drunkenness involving a motor vehicle.

- 12.9.1 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 7 years free from conviction should elapse after the restoration of the DVLA licence before an applicant is granted a licence.
- 12.9.2 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 7 years is likely to merit refusal.
- 12.9.3 In addition, applicants will normally be required to show a period of at least 7 years has elapsed after completion of detoxification treatment if (s)he was an alcoholic.

12.10 Drink driving/driving under the influence of drugs.

- 12.10.1 Where an applicant has a conviction for drink driving or driving under the influence of drugs, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence or driving ban imposed. In the case of driving under the influence of drugs, any applicant may also have to undergo drugs testing at their own expense to demonstrate that they are not using controlled drugs.

12.11 Minor Traffic Offences

- 12.11.1 Isolated convictions for minor traffic offences should not prevent a person from proceeding with an application. However, the number, type and frequency of this type of offence will be taken into account and if there are several offences of this nature the applicant will normally be expected to show a period free of conviction of at least 6 months.
- 12.11.2 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.
- 12.11.3 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

Previous Convictions

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)
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

12.12 Hybrid Traffic Offences

- 12.12.1 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 becomeCU12)

Causing or permitting

Offences as coded above, but with 0 changed to 4 (e.g. CU10 becomesCU14)

Inciting

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

12.13 Using a hand-held device whilst driving

- 12.13.1 Where an applicant has a conviction for using a held-hand mobile telephone or a hand-held device whilst driving, a licence will not be granted until at least five years have elapsed since the conviction or completion of any sentence or driving ban imposed, whichever is the later.

Previous Convictions

12.14 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 Over 6 points on your licence	Licensing Officer discretion (depending on the offence) You will be required to attend a Hearing
Hybrid	Up to and including 6 points on your licence Over 6 points on your licence (Except Speeding)	Licensing Officer discretion (depending on the offence) You will be required to attend a Hearing
Speeding Offences	SP (Speeding offences) - Up to and including 9 points on your licence SP (Speeding offences) - Over 9 points on your licence	Licensing Officer discretion You will be required to attend a Hearing

12.15 Disqualification

- 12.15.1 Where an applicant has been disqualified from driving because of a major traffic offence the application will generally be refused unless a period of 2 years free from conviction has elapsed from the restoration of the DVLA licence.
- 12.15.2 Where several minor traffic offences have resulted in the applicant being disqualified from driving for a period of time this will normally be taken as reflecting seriously on the applicant's driving standard. Generally, a period of 12 months free from conviction must have elapsed from the restoration of the DVLA licence.
- 12.15.3 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.

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

- 12.16.1 One of the main purposes of the licensing regime set out in the Town Police Clauses Acts and Part II of the Local Government (Miscellaneous Provisions) Act 1976 ("the Acts") is to ensure the protection of the public. For this reason a serious view is taken of convictions for offences under the Acts (including illegally plying

Previous Convictions

for hire) when deciding whether an applicant is to be treated as a fit and proper person to hold a licence.

- 12.16.2 In particular, an applicant will normally be refused a licence where (s)he has been convicted of an offence under the Acts at any time during the 6 months preceding the application or has more than one conviction within the last 2 years preceding the date of the application.

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

- 12.17.1 Under the 1974 Act, criminal convictions can become spent after a certain period of time, and once spent, for many purposes, can be disregarded completely.
- 12.17.2 The possibility of rehabilitation and the length of time before rehabilitation occurs is dependent on the sentence imposed, and not the offence committed.
- 12.17.3 Where a person is sentenced to imprisonment for a period exceeding thirty months, the conviction can never be spent.
- 12.17.4 Despite the above, the principles of the Act do not apply to applicants for hackney carriage and private hire drivers' licences. This is because the driving of these vehicles is listed as a 'Regulated Occupation' in relation to which questions may be asked as to the suitability of individuals to be granted a licence.
- 12.17.5 Although the Act does not prevent any judicial authorities, including the Licensing Authority, from taking spent convictions into account, such convictions are only admissible in so far as they are relevant to the issue as to whether the applicant is a 'fit and proper person' to hold a licence.
- 12.17.6 The determination as to whether certain convictions are spent, therefore, may be a relevant exercise.
- 12.17.7 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 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.

13 APPENDIX F

13.1 DRIVER KNOWLEDGE TESTS

Introduction

- 13.1.1 All new applicants for either a private hire, dual or hackney drivers badge will need to take a written knowledge test.
- 13.1.2 Applicants wishing to sit the Knowledge Test should complete the booking form which can be found on the councils website and return it with the appropriate fee in order to be allocated a place on the next available Knowledge Test.
- 13.1.3 After a booking form and fee has been submitted, candidates must sit at least one test in a six month period.
- 13.1.4 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.
- 13.1.5 All elements of the test must achieve the required pass mark. For Hackney Carriage and Dual tests, the required pass mark for the routes is 80%, with all successful candidates achieving an overall pass mark of 70%. For Private hire applicants, an overall pass mark of 70% is required.
- 13.1.6 A candidate can retake the Test until they reach the required pass mark as long as the required fee is paid for each resit.
- 13.1.7 Knowledge Test will be held a minimum of four times per year.
- 13.1.8 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.
- 13.1.9 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.
- 13.1.10 Tests will be marked within 7 days and applicants will be informed of the result by email.
- 13.1.11 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

13.2 The Knowledge Test

13.2.1 The test will consist of various sections including the following –

- Routes
- Places of Interest
- Local amenities and sports and leisure facilities
- Locating towns and villages on a map
- Math and English
- Current policy and legislation

13.2.2 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

14 APPENDIX G

14.1 PRIVATE HIRE DRIVER'S LICENCE CONDITIONS

Conduct of Driver

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

Private Hire Drivers Conditions

- 14.1.13 The vehicle shall be presented in a clean and tidy condition for each journey.
- 14.1.14 The private hire vehicle must only be driven with the consent of the proprietor of the vehicle.
- 14.1.15 The driver must not drink or eat in the vehicle whilst in the presence of customers.
- 14.1.16 The driver must comply with any hirer's request not to play any radio or sound equipment which is not connected with the operation of the business.
- 14.1.17 The driver must ensure that the noise emitted from any sound equipment in the vehicle does not cause annoyance to any persons, whether inside or outside the vehicle.
- 14.1.18 The driver shall not operate the horn late at night as a means of signalling that the vehicle has arrived.
- 14.1.19 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.
- 14.1.20 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.
- 14.1.21 Drivers must not use a mobile phone whilst driving unless it is designed for hand-free operation.
- 14.1.22 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.
- 14.1.23 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.
- 14.1.24 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.
- 14.1.25 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.
- 14.1.26 The private hire driver's licence must be presented to the proprietor concerned at the beginning of the employment.
- 14.1.27 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.

14.2 Assistance Dogs

- 14.2.1 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.
- 14.2.2 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.
- 14.2.3 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.

14.3 Medical Fitness of Driver

- 14.3.1 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.
- 14.3.2 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.

14.4 Fares and Journeys

- 14.4.1 The driver/operator of a private hire vehicle may make their own agreement with the hirer as to the fare for a particular journey.
- 14.4.2 The driver shall, if requested by the hirer, provide him with a written receipt for the fare paid.
- 14.4.3 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 of 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.

14.4.4 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.

14.5 Wheelchair Accessible Vehicles

14.5.1 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

15 APPENDIX H

15.1 PENALTY POINTS SYSTEM

- 15.1.1 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:
- 15.1.2 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.
- 15.1.3 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.
- 15.1.4 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.
- 15.1.5 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.
- 15.1.6 Points issued to either a proprietor or driver will be confirmed in writing.
- 15.1.7 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.
- 15.1.8 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.
- 15.1.9 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.
- 15.1.10 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

- 15.1.11 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.
- 15.1.12 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.
- 15.1.13 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.
- 15.1.14 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.
- 15.1.15 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.

15.2 Penalty Points Tariff

- 15.2.1 Two statutes principally create offences relating to hackney carriages and private hire vehicles –
 - Town Police Clauses Act 1847
 - Local Government (Miscellaneous Provisions) Act 1976
- 15.2.2 The offences are set out below under the relevant statute
- 15.2.3 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
- 15.2.4 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	4
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	4
64	Hackney carriage driver obstructing other hackney carriages	1	4

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	4
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	4
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	4
54(2)	Failure to wear a private hire driver's badge	3	4
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 consider reordering in category – Drivers – Vehicle – Operators etc.	Points
P1	Failure to wear a driver's badge	4
P2	Failure to adhere to the Code of Good Conduct for Licensed Drivers where not mentioned below	6
P3	Failure to ensure the safety of passengers	12
P4	Concealing or defacing a vehicle licence plate	6
P5	Failure to attend on time for a pre-arranged booking without reasonable cause	6
P6	Conveying a greater number of passengers than permitted	6
P7	Failure to give reasonable assistance with passenger's luggage	6
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	6
P10	Driving without the consent of the proprietor	8-12
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 Licensing Services 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 to Licensing Services 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 or with you on an electron device for inspection	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
P52	Failure to take a passenger from Waterloo Rank due to short journey, having no change with you to take cash, or charging more than the Fare shown on the Meter when taking a credit card payment.	9

16 APPENDIX I

16.1 Code of good conduct for licensed drivers

- 16.1.1 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.

16.2 Responsibility to the trade:

- 16.2.1 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.

16.3 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).

16.4 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

16.5 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.

16.6 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.

16.7 General

16.7.1 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

16.8 Disciplinary Hearings

- 16.8.1 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:

Code of conduct

- the driver has been convicted, since the grant of the licence, of an offence involving dishonesty, indecency or violence
- 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

16.9 Responsibility towards Council Employees

- 16.9.1 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

17 APPENDIX J

17.1 PRIVATE HIRE OPERATORS LICENCE CONDITIONS

Standards of Service

17.1.1 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.
- Maintain a register of all staff that will take bookings or dispatch vehicles
- Operators should evidence that they have had sight of a Basic DBS check on all individuals listed on their register of booking and dispatch staff and to ensure that Basic DBS checks are conducted on any individuals added to the register and that this is compatible with their policy on employing ex-offenders.
- Operators may outsource booking and dispatch functions but they cannot pass on the obligation to protect children and vulnerable adults. Operators should be required to evidence that comparable protections are applied by the company to which they outsource these functions.
- Licensing authorities should also require operators or applicants for a licence to provide their policy on employing ex-offenders in roles that would be on the register as above. As with the threshold to obtaining a private hire vehicle operators' licence, those with a conviction for offences as follows:
 - i. Crimes resulting in death
 - ii. Exploitation
 - iii. Offences involving violence against the person
 - iv. Possession of a weapon
 - v. Sexual offences
 - vi. Dishonesty
 - vii. Drugs
 - viii. Discrimination

Private Hire Operators - conditions

- ix. Motoring convictions
- x. Drink driving/driving under the influence of drugs
- xi. Using a hand-held device whilst driving

17.2 Records

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

17.3 Bookings

- 17.3.1 Prior to each journey, the operator shall enter the following particulars of every booking of a private hire vehicle accepted, pursuant to section 56(2) of the Local Government (Miscellaneous Provisions) Act 1976, namely the:
 - xii. the name of the passenger;
 - xiii. the time of the request;
 - xiv. the pick-up point;
 - xv. the destination;
 - xvi. the name of the driver;
 - xvii. the driver's licence number;
 - xviii. the vehicle registration number of the vehicle;
 - xix. the name of any individual that responded to the booking request;
 - xx. the name of any individual that dispatched the vehicle
- 17.3.2 booking records should be retained for a minimum of six months.
- 17.3.3 Where a private hire vehicle is unsuitable, for example where a larger vehicle is needed because more than eight passenger seats required or to accommodate

Private Hire Operators - conditions

luggage, the booker should be informed that a PSV is necessary, and that a PCV licenced driver will be used who is subject to different checks and not required to have an enhanced DBS check.

17.4 Vehicles

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

- 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

17.5 Drivers

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

- 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

17.6 Disclosure of Convictions

17.6.1 The operator shall, within seven days of conviction, notify the Council in writing, of any conviction or fixed penalty notice imposed on him during the period of duration of his operator's licence.

17.6.2 If the operator is a company or partnership, this requirement shall equally apply if any of the directors or partners receives a conviction or fixed penalty notice.

17.7 Insurance

Private Hire Operators - conditions

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

17.8 Private Hire Drivers' Licences

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

17.9 Miscellaneous

- 17.9.1 If a licensed operator changes either his home or business address, he must, within seven days, give written notice to the Council specifying his new address.
- 17.9.2 The operator shall ensure that the licence plate issued and allocated by the Council is permanently fixed to the rear of the vehicle in a conspicuous upright position and in a manner as approved by an authorised officer.
- 17.9.3 The operator shall ensure the licence plate is maintained in a clean and legible condition and shall inform the Council immediately if it becomes lost, broken or defaced.
- 17.9.4 To operate a private hire business from home, planning permission will normally be required. A private hire operator's licence will not be granted without evidence that either planning permission has been issued for the premises concerned, or planning permission is not required for the use proposed.
- 17.9.5 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

18 APPENDIX K

18.1 HACKNEY CARRIAGE AND PRIVATE HIRE ENFORCEMENT POLICY

Enforcement Policy Statement

- 18.1.1 It is the policy of Tonbridge and Malling Borough Council to ensure that taxi drivers and operators are licensed correctly and carry out their trade in accordance with both the relevant law and the conditions attached to the licences.
- 18.1.2 This policy is in accordance with the Regulators' Compliance Code and the regulatory principles set out in the Legislative & Regulatory Reform Act 2006. The Council will seek to adopt a positive and proactive approach towards ensuring compliance, in accordance with the following key principles –
- **Economic progress** – the Council recognises that a key element of our enforcement activity will be to allow/ encourage economic progress and we shall only intervene where there is a clear case for protection
 - **Risk Assessment** – we shall use a comprehensive risk assessment to concentrate resources in the areas that need them most
 - **Advice and guidance** – we will provide authoritative, accessible advice easily and cheaply
 - **Compliance and enforcement actions** – the few businesses that persistently break statutory requirements will be identified quickly and face proportionate and meaningful sanctions.
 - **Accountability** – the Council will be accountable for the efficiency and effectiveness of its activities, while remaining independent in the decisions it takes,
- 18.1.3 All enforcement action, be it verbal warnings, the issue of written warnings, penalty points, statutory notices, appearance before the committee or prosecution, will primarily be based upon the seriousness of the breach and the possible consequences arising out of it. Enforcement action will not, therefore, constitute a punitive response to minor technical contraventions of legislation.
- 18.1.4 Authorised officers, when making enforcement decisions, will abide by this policy. Any departure from the policy must be exceptional, capable of justification, be fully considered and be endorsed by the Licensing 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).
- 18.1.5 Authorised officers must be fully acquainted with the requirements of the policy and appropriate training will be provided where required.

Taxi and Private Hire Enforcement Policy

- 18.1.6 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.

18.2 Enforcement Options

- 18.2.1 Achieving and maintaining a consistency of approach to making all decisions that concern taxi licensing and enforcement action, including prosecution, is of paramount importance. To achieve and maintain consistency, it is vital that the policy guidelines are always considered and followed where appropriate.
- 18.2.2 Enforcement decisions must always be consistent, balanced, proportionate and relate to common standards which ensure that the public is adequately protected. In reaching any decision many criteria must be considered including the:-
- seriousness of any offences.
 - driver or operator's past history.
 - consequence of non-compliance.
 - likely effectiveness of the various enforcement options.
 - the economic consequences of enforcement
 - danger to the public.
- 18.2.3 Having considered all relevant information and evidence, the choices for action are:-
- take no action.
 - take informal action.
 - issue penalty points (see **Appendix G**)
 - use statutory notices, (stop notices etc.).
 - suspend a licence.
 - revoke a licence.
 - use simple cautions.
 - Prosecute.
 - a combination of any of the above.
- 18.2.4 This policy document provides detailed guidance applicable to the various options for enforcement action.

Taxi and Private Hire Enforcement Policy

18.3 Informal Action

- 18.3.1 Informal action to secure compliance with legislation includes offering advice, verbal and written warnings and requests for action and the use of letters.
- 18.3.2 Such informal enforcement action may be appropriate in any of the following circumstances: -
- the act or omission is not serious enough to warrant more formal action.
 - it can be reasonably expected that informal action will achieve compliance, perhaps by taking into account the individual driver or operator's past history.
 - confidence in the operator's management is high.
 - the consequences of non-compliance will not pose a significant risk to the safety of the public.
- 18.3.3 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.

18.4 Appearance before the Licensing & Appeals Panel

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

18.5 Section 68 Notices (Stop Notices)

- 18.5.1 An authorised officer may serve notice in writing for a hackney carriage or private hire vehicle, or the taximeter affixed to such vehicle to be examined at the Council's appointed garage at a time specified in the notice. This notice must only be served having had due regard to the condition of the vehicle or with reasonable grounds to suspect the accuracy of the taximeter.
- 18.5.2 An authorised officer may, in addition to requiring the vehicle to be tested, suspend the vehicle licence until such time as he is satisfied with the condition of the

Taxi and Private Hire Enforcement Policy

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.

- 18.5.3 The suspension notice will remain in place until such time as the Officer issuing the notice is satisfied that the grounds for suspension have been satisfactorily resolved. Written confirmation of the lifting of the suspension notice will be given. Until such time as written confirmation has been received, the suspension notification will remain active.
- 18.5.4 If the Authorised Officer who issued the suspension notice is not satisfied that the appropriate action has been taken to allow the suspension notice to be withdrawn within a period of two months from the date of issue, the vehicle licence shall be deemed to be revoked.

18.6 Appeals

- 18.6.1 Appeals against decisions of the Licensing and Appeals Panel or authorised officers may be made to the Magistrates' Court.
- 18.6.2 Any notifications of enforcement actions will include written information on how to appeal. Where the Council suspends or revokes a driver's licence the revocation or suspension may come into effect immediately although the driver may have made an appeal against the decision to the Magistrates' Court.
- 18.6.3 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.

18.7 Prosecution

- 18.7.1 The decision to prosecute is a very significant one as it may impact on the licence holder's future employability. Prosecution will, in general, be restricted to those circumstances where the law is blatantly disregarded, legitimate requirements of the Council are not followed and / or the public is put at serious risk. Such circumstances are, however, in a minority. It is important that the criteria on which a decision to prosecute is made provide common standards which ensure a consistent approach.
- 18.7.2 The circumstances which are likely to warrant prosecution may be characterised by one or more of the following: -
- where there is a blatant disregard for the law, particularly where the economic advantages of breaking the law are substantial and the law-abiding are placed at a disadvantage to those who disregard it.
 - when there appears to have been reckless disregard for the safety of passengers or other road users.
 - where there have been repeated breaches of legal requirements.
 - where a particular type of offence is prevalent.
 - where a particular contravention has caused serious public alarm.

Taxi and Private Hire Enforcement Policy

- 18.7.3 When circumstances have been identified which may warrant a prosecution, all relevant evidence and information must be considered, to enable a consistent, fair and objective decision to be made.
- 18.7.4 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.
- 18.7.5 In addition to being satisfied that there is sufficient evidence to provide realistic prospect of conviction, it must be established that it is in the public interest to prosecute. The Code for Crown Prosecutors, issued by the Crown Prosecution Service, provides guidance which will be considered, including relevant public interest criteria.
- 18.7.6 When a decision is being taken on whether to prosecute, the factors to be considered may include: -
- the seriousness of the alleged offence.
 - the risk or harm to the public.
 - identifiable victims.
 - failure to comply with a statutory notice served for a significant breach of legislation.
 - disregard of safety for financial reward.
 - the previous history of the party concerned.
 - offences following a history of similar offences.
 - failure to respond positively to past warnings.
 - the credibility of any important witnesses and their willingness to cooperate.
 - the willingness of the party to put right the loss or harm that has occurred,
 - whether a prosecution would have a significant positive impact on maintaining community confidence.
 - whether other action, such as issuing a simple caution in accordance with the Home Office Circular 016./2008 would be more appropriate or effective.

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

18.8 Simple Cautions

- 18.8.1 A simple caution may be used as an alternative to a prosecution in certain circumstances.
- 18.8.2 The purposes of the simple caution are: -
- to deal quickly and simply with less serious offences where the offender has admitted the offence.

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.

18.8.3 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).

18.8.4 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.

18.9 Transparency

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

18.9.2 Any written documentation issued or sent will: -

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

18.9.3 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.

19 APPENDIX L

19.1 GROUNDS FOR APPEAL TO MAGISTRATES' COURT

An Appeal

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

Hackney Carriage

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

Private Hire

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

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

20 APPENDIX M

20.1 Taxi and Private Hire Complaints Procedure

20.1.1 <https://www.tmbc.gov.uk/council/council-works-complaints>

Summary of Legislation

21 APPENDIX N

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

<p>Section 46 Vehicle, driver and operators licences</p>	<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>
<p>Section 49 Transfer of hackney carriage and private hire vehicles</p>	<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>
<p>Section 50 Provisions as to proprietors</p>	<p>(1) The proprietor of any hackney carriage or private hire vehicle licensed by a district council shall present such hackney carriage or private hire vehicle for inspection and testing by or on behalf of the council within such period and at such place within the area of the council as they may by notice reasonably require</p> <p>(2) The proprietor of any hackney carriage or private hire vehicle shall, within such period as the district council may by notice reasonably require, state in writing the address of every place where such hackney carriage or private hire vehicle is kept when not in use</p> <p>(3) The proprietor of a hackney carriage or private hire vehicle licensed by a district council shall report to them as soon as reasonably practicable, and in any case within 72 hours of the occurrence thereof any accident to such hackney carriage or private hire vehicle causing damage materially affecting the safety, performance or appearance of the hackney carriage or private hire vehicle or the comfort or convenience of persons carried therein</p>

Summary of Legislation

	(4) The proprietor of any hackney carriage or private hire vehicle licensed by a district council shall at the request of any authorised officer of the council produce for inspection the vehicle licence for such hackney carriage or private hire vehicle and the Certificate of Policy of Insurance or security required by the Road Traffic Acts in respect of such hackney carriage or private hire vehicle
Section 53 Drivers' licences for hackney carriage and private hire vehicles	<p>The driver of any hackney carriage or of any private hire vehicle licensed by a district council shall at the request of any authorised officer of the council or of any constable produce for inspection his drivers' licence forthwith or</p> <p>(a) in the case of the request by an authorised officer at the principal offices of the council, before the expiration of the period of five days beginning with the day following that on which the request was made</p> <p>(b) in the case of a request by a constable, before the expiration of the period aforesaid at any police station which is within the area of the council and is nominated by the driver when the request is made</p>
Section 54 Wearing of drivers badges	A driver shall at all times when acting in accordance with a drivers licence granted to him wear such badge in such position and manner as to be plainly and distinctly visible

Section 56 Operators of private hire vehicles	<p>(i) Every contract for the hire of a private hire vehicle licensed under this Act shall be deemed to be made with the operator who accepted the booking for that vehicle whether or not he himself provided the vehicle</p> <p>(ii) Every person to whom a licence in force under this Act shall keep a record in such form as the council may by condition attach to the grant of the licence, and enter details in the record before the commencement of each journey, particulars of every booking of a private hire vehicle invited or accepted by him whether by accepting the same from the hirer or at the request of another operator. The operator shall produce such record on request to any authorised officer of the council or constable for inspection.</p> <p>(iii) Any person who has a licence under this Act shall enter details in the record the particulars of any private hire vehicle operated by him and shall produce the same on request to any authorised officer of the council or constable for inspection</p> <p>(iv) A person to whom a licence has been granted under this Act shall produce the licence on request to any authorised officer of the council or constable for inspection</p>
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	<p>(a) On the revocation or expiry of a vehicle licence in relation to a hackney carriage or private hire vehicle</p> <p>(b) The suspension of a licence under section 68 of this Act</p>

Summary of Legislation

revocation or expiry of licence	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
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) Any person who (a) wilfully obstructs an authorised officer or constable; or (b) without reasonable excuse fails to comply with any requirements properly made to him by such officer or constable; or (c) without reasonable cause fails to give such officer or constable so acting any other assistance or information which he may reasonably require of such person for the purpose of the performance of his functions shall be guilty of an offence</p> <p>(2) If any person in giving any information to (1) makes any statement he knows to be false he shall be guilty of an offence</p>

22 Appendix N Delegations

22.1 Delegations

22.1.1 In accordance with Part 3 of the Constitution of Tonbridge and Malling Borough Council the Licensing Officers are 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.	C
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.	C
DCS 802	<p>To take all enforcement action including the power to suspend/ revoke:</p> <p>(i) vehicle licences</p> <p>(ii) drivers' licences</p> <p>(iii) operators' licences</p> <p>Under the Local Government (Miscellaneous Provisions) Act 1976, including where the suspension is to have immediate effect.</p>	C

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TONBRIDGE & MALLING BOROUGH COUNCIL

LICENSING & APPEALS COMMITTEE

27 September 2023

Report of the Director of Central Service and Deputy Chief Executive

Part 1- Public

Delegated

1. THE SCRAP METAL DEALERS POLICY 2024 – 2029

1.1 Background

- 1.1.1 The current Policy on Scrap Metal Dealers 2019 – 2024 was published in 2019 and has a life span of five years.
- 1.1.2 Tonbridge & Malling Borough Council currently has two site licences and 7 Mobile Scrap Metal licences.
- 1.1.3 Metal theft over recent years has had a significant impact on communities, business, and local authorities. Metal thefts has been on the rise which is why the Scrap Metal Dealers Act 2013 was introduced in October 2013 and came into force in December 2013. It was a way to try and combat desecration of churches and historic buildings, inspection covers, and road signage being stolen.
- 1.1.4 This policy outlines the requirements of the Scrap Metal Dealers Act 2013. This policy aims to give guidance to new applicants, existing licence holders, consultees, and members of the public as to how the Council will administer and enforce the requirements of the Act.
- 1.1.5 The Scrap Metal Dealers Policy is kept under review and where any significant amendments are considered necessary these will only be made after consultations have taken place in accordance. Amendments required due to a change in legislation that do not impact on the aims and objectives of the Policy will be made with the approval of the Licensing Officer for the policy to remain legislatively current.
- 1.1.6 The Scrap Metal Dealers Act 2013 came into effect on 1 October 2013. It repeals all previous legislation and creates a revised regulatory regime for scrap metal recycling and vehicle dismantling industries.
- 1.1.7 The Act defines a 'scrap metal dealer' as a person who carries on the business which consists wholly or in part of the buying and selling of scrap metal, whether the metal is sold in the form it was bought. Or carries on a business as a motor salvage operator. This does not include manufacturing operations that sell metal as

a by-product of the processes being used in that operations. This includes the business of collection scrap metal, i.e., door to door collectors.

1.2 Consultation

1.2.1 A copy of the Policy on Scrap Metal Dealers 2019 – 2024 is shown at **Annex 1**

1.2.2 A copy of the Feedback form for the Scrap Metal Policy is shown at **Annex 2**

1.2.3 The following process steps enabled development of this policy.:

Draft consultation agreed at the Licensing Committee	27 September 2023
Public Consultation	9 October 2023 – 30 November 2023
Licensing Committee agrees the policy and recommends to Full Council for adoption	26 March 2024
Full Council adopt policy	9 April 2024
New Policy comes into force	22 April 2024

1.2.4 The consultation will be published on the Councils website, and will be sent to the following people:

- Existence licence holders
- The Chief Officer of Police for Kent and British Transport Police
- the Fire and Rescue authority for Kent
- Tonbridge and Malling Borough Council's Environmental Protection Team
- Environment Agency
- Trading Standards
- Existing licence holders
- Relevant trade associations

1.3 Legal Implications

1.3.1 The licensing of Scrap Metal Dealers Site or Mobile licences is governed by the Scrap Metal Dealers Act 2013.

1.4 Financial and Value for Money Considerations

1.4.1 There are no statutory fees for Scrap Metal Dealers Site or Mobile licences. The level of fee is therefore at the discretion of the Licensing Authority,

- 1.4.2 The current fees for a Scrap Metal Site licence is £440 and for a Mobile Collectors Licence is £330.

1.5 Risk Assessment

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

1.6 Equality Impact Assessment

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

1.7 Policy Considerations

- 1.7.1 Crime & Disorder Reduction and Community

1.8 Recommendations

- 1.8.1 Members are RECOMMENDED to approve the draft policy for consultation in Annex 1.

Background papers:

Scrap Metal Dealers Act 2013

Guidance for the Scrap Metal Dealers Act 2013,
updated on the 2 March 2023

contact: Anthony Garnett
Katie Shipman

Adrian Stanfield

Director of Central Service and Deputy Chief Executive

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Scrap Metal Dealers Policy

2024 – 2029

All applications will be considered on their merits, as well as against the relevant policy and statutory framework.

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INTRODUCTION

Metal theft over recent years has had a significant impact on communities, business, and local authorities. Metal thefts has been on the rise which is why the Scrap Metal Dealers Act 2013 was introduced in October 2013 and came into force in December 2013. It was a way to try and combat desecration of churches and historic buildings, inspection covers, and road signage being stolen.

This policy outlines the requirements of the Scrap Metal Dealers Act 2013. This policy aims to give guidance to new applicants, existing licence holders, consultees, and members of the public as to how the Council will administer and enforce the requirements of the Act.

1 CONSULTATION

- 1.1 The Scrap Metal Dealers Policy will be kept under review and where any significant amendments are considered necessary these will only be made after consultations have taken place in accordance. Amendments required due to a change in legislation that do not impact on the aims and objectives of the Policy will be made with the approval of the Licensing Officer for the policy to remain legislatively current.
- 1.2 Proper weight, in accordance with the Guidance, has been given to the views of all those consulted. Those consulted in the preparation of this Policy included:
 - the Chief Officer of Police for Kent and British Transport Police
 - the Fire and Rescue authority for Kent
 - Tonbridge and Malling Borough Council's Environmental Protection Team
 - Environment Agency
 - Trading Standards
 - Existing licence holders
 - Relevant trade associations

1.3 The Scrap Metal Dealers Policy

1.3.1 The following process steps enabled development of this policy.

Draft consultation agreed at the Licensing Committee	27 September 2023
Public Consultation	9 October 2023 – 30 November 2023
Licensing Committee agrees the policy and recommends to Full Council for adoption	26 March 2024
Full Council adopt policy	9 April 2024
New Policy comes into force	22 April 2024

2 BACKGROUND

- 2.1 The Scrap Metal Dealers Act 2013 came into effect on 1 October 2013. It repeals all previous legislation and creates a revised regulatory regime for scrap metal recycling and vehicle dismantling industries.
- 2.2 The Act defines a 'scrap metal dealer' as a person who carries on the business which consists wholly or in part of the buying and selling of scrap metal, whether the metal is sold in the form it was bought. Or carries on a business as a motor salvage operator. This does not include manufacturing operations that sell metal as a by-product of the processes being used in that operations. This includes the business of collection scrap metal, i.e., door to door collectors.
- 2.3 The definition of scrap metal dealers is wide and may include skip hire firms, and tradesman such as plumbers and builders who sell scrap metal resulting from their businesses.
- 2.4 In these circumstances, each business will be considered on its own merits, but consideration will be given to the amount of metal sold and how incidental the sale is to the main business. So, in most cases for plumbers, electricians, and builders etc. the sale of metal will be incidental and should not require a licence. However, skips sited at demolition sites, or at engineering manufacturing sites or plumbers' yards, it is likely the skip will contain a significant amount of metal, so the skip hire company will require a licence.
- 2.5 The Act identifies the local authority as the principal regulator and gives them power to regulate these industries by ability to refuse licences to unsuitable applicants and the power to revoke those licences held by licence holders who become unsuitable.
- 2.6 The Act states that scrap metal includes.
 - Any old, waste, or discarded metal or metallic material
 - Any product, article or assembly which is made from or contains metal and is broken, worn out or regarded by its last holder as having reached the end of its useful life.

This definition does include platinum and other rare metals now being used in catalytic converters in vehicle exhausts.

2.7 The following is not considered to be scrap metal:

- Gold
- Silver
- Any alloy of which 2% or more by weight is attributable to gold or silver.

2.8 A dealer also includes someone carrying on the business as a motor salvage operator. This is defined as a business that:

- Wholly or in part recovers salvageable parts from motor vehicles for re-use or re-sale, and then sells the rest of the vehicle for scrap.
- Wholly or mainly buys or sells motor vehicles for the purpose of salvaging parts from them or repairing them and re-selling them.

However, only vehicles without a certificate of destruction, or are capable of being driven without repair, with or without a valid MOT are likely to be classes as second-hand goods. Other vehicles are likely to be considered scrap. These aspects will be considered when the Council determines whether a scrap metal dealer licence is required. It should also help prevent any motor salvage operators attempting to circumvent the legislation and its requirements.

2.9 The Act is not intended to include second hand goods. Jewellers or businesses trading in second hand gold, silver and products are not included in this legislation.

3 TYPES OF LICENCE

3.1 A licence is required to carry on the business as a scrap metal dealer. A licence is granted for three years. Trading in scrap metal without a licence is a criminal offence.

3.2 There are two types of licences specified within the Act: Site licence and Collector's licence.

3.3 **Site licence** – all sites operating as a scrap metal business must be licensed. Each site must have a named site manager. A site licence allows the licence holder to transport scrap to and from the site from any local authority area.

3.4 A site under the Act is defined as any premises used while carrying on a business as a scrap metal dealer (whether or not metal is kept there). This

means a dealer will require a licence for an office, even if they do not operate a metal store or yard from those premises.

- 3.5 **Collectors licence** – this allows the licence holder to collect scrap within the area of the issuing local authority. This licence does not permit the holder to operate a scrap metal site, nor does it allow collection outside the area of the issuing authority. If a person collects scrap from many local authority areas, a collector's licence will be required from each local authority where he/she collects scrap.

A dealer can only hold **ONE** type of licence in any one local authority.

- 3.6 Holding a site or collectors' licence does not exempt the licensee from requiring any other licence or permit to operate their scrap metal business.

4 **SUITABILITY OF APPLICANT**

- 4.1 The Council must determine if an applicant is a suitable person to carry on the business as a scrap metal dealer.
- 4.2 The Council may have regard to any information which it considers to be relevant, this may include:
- Whether the applicant or site manager has been convicted or any relevant offence
 - Whether the application or site manager has been the subject of any relevant enforcement action
 - Whether there has been any refusal of an application of the issue or renewal of a scrap metal licence, and the reasons for refusal.
 - Whether there has been any refusal of an application for a relevant environmental permit or registration, and the reasons for the refusal.
 - If there has been any previous revocation of a scrap metal licence and the responses for the revocation.
 - Whether the applicant has demonstrated there will be adequate procedures in place to ensure compliance with the Act.

4.3 When establishing the applicant's suitability, the Council may consult with the following agencies:

- Kent Police
- Her Majesty's Revenue and Customs
- Environment Agency
- The Council's Environmental Protection Team
- Trading Standards

4.4 Relevant offences or relevant enforcement action are those listed under the Scrap Metal Dealers Act 2013 (Prescribed relevant offences and relevant enforcement action) Regulations 2013

5 SUPPLY OF INFORMATION BY THE LOCAL AUTHORITY

5.1 Information supplied to the authority in relation to an application for, or relating to a scrap metal licence must be provided when requested relating to a licence to:

- Any other local authority
- Environment Agency
- An officer of a police force

This does not limit any other power the authority has to supply that information.

6 REGISTER OF LICENCES

6.1 The Environmental Agency will maintain a register for scrap metal licences issued by all local authorities which in England. The register will include.

- Name of the authority that issued the licence.
- Name of the licence holder
- Any trading name of the licence holder
- Address of the site listed on the licence.
- Type of licence

- Expiry date of licence

The register will be open for inspection by members of the public.

6.2 The Council are required to update the register on a regular basis.

7 DISPLAY OF LICENCES

- 7.1 Once granted, a copy of the site licence must be displayed at each site identified on the licence; in a prominent place which is accessible to members of the public.
- 7.2 A copy of a collector's licence must be displayed on any vehicle that is being used during a dealer's business. It must be displayed in a prominent position so that it can be easily read from the outside of the vehicle.

8 VERIFICATION OF SUPPLIERS IDENTITY

- 8.1 Before receiving scrap metal, the dealer must verify a person's full name and address, by reference to documents or data from a reliable and independent source.
- 8.2 If suitable verification is not obtained the scrap metal dealer, or site manager, or person who has been delegated responsibility by the dealer or site manager for verifying the name and address, shall be guilty of an offence.

9 PAYMENT FOR SCRAP METAL

- 9.1 A scrap metal dealer must only pay for scrap metal by either:
- Cheque (which is not transferable under Section 81A of the Bills of Exchange Act 1882)
 - Electronic transfer of funds (authorised by a credit and debit card)

Cash payments and payments in kind with goods and services for scrap metal are not permitted.

10 RECORDS

10.1 Scrap metal dealers must keep three types of records:

- Receipt of Metal –
- Disposal of Metal
- Supplementary

10.2 Receipt of Metal – if metal is received during the dealer's business the following must be recorded:

- Description of the metal, including its type (types if mixed), form, condition, weight, and any marks identifying previous owners or other distinguishing features
- Date and time of receipt
- Registration mark of the vehicle it was delivered by.
- Full name and address of the person delivering it.
- Full name of the person making payment on the behalf of the dealer.

10.3 Disposal of Metal – Disposal under the Act covers metal:

- Whether or not it is in the same form when it was purchased
- Whether or not it is to another person
- Whether or not it is despatched from a site

10.4 Disposal records must be kept and include:

- Date and time of disposal
- If to another person, their full name and address
- If payment is received for the metal (sale or exchange) the price or other consideration received.

10.5 If disposal is during business conducted under a collectors licence the dealer must record:

- Date and time of disposal
- If to another person, their full name and address

- 10.6 Supplementary – The information collected during receipt and disposal must be recorded in such a manner that allows the information and the metal to which it relates to be easier identified.
- 10.7 The records of receipt must be kept for a period of three years beginning on the day of receipt of disposal.
- 10.8 If suitable records for the receipt or disposal of scrap metal are not kept then the scrap metal dealer or site manager, or person who has been delegated responsibility by the dealer or site manager for keeping records shall be guilty of an offence.
- 10.9 A dealer or site manager may have a defence if they can prove arrangements had been made to ensure the requirement to keep records was fulfilled, or they took all reasonable steps to ensure those arrangements were complied with.

11 RIGHTS OF ENTRY AND INSPECTION

- 11.1 An authorised officer of the Council may enter and inspect a licensed site at any reasonable time, with or without notice to the site manager.
- 11.2 Entry to the site is reasonably required for the purpose of ascertaining whether the provisions of the Act are being complied with or investigating offences under it and in either case the giving of the notice would defeat the purpose.
- 11.3 Sections 11.1 and 11.2 do not apply to residential premises for mobile collectors and site licences.
- 11.4 An authorised officer of the Council is not entitled to use force to enter a premises, but may ask a justice of the peace to issue a warrant authorising entry, if they are satisfied there are reasonable grounds for entry to the premises for the purpose of:
- Securing compliance with the provisions of the Act
 - Ascertaining whether those provisions are being complied with
- 11.5 Premises under this section include licensed sites or premises that are not licensed, but there are reasonable grounds for believing the premises are being used as a scrap metal dealing business.
- 11.6 An authorised officer of the Council may use reasonable force in the exercise of the powers under a warrant obtained under section 11.4.

11.7 An authorised officer of the council may require:

- Production of and inspect any records kept in respect of receipt and disposal of metal.
- Require production of and inspect any records in respect of receipt and disposal of metal and take copies or extracts from any such record.

11.8 An authorised officer of the Council must produce evidence of their identity and evidence of their authority to exercise these powers, if requested by the owner occupier or other person in charge of the premises.

12 APPLICATION PROCEDURE

12.1 An application form must be completed and submitted with the fee, and a basic disclosure of criminal convictions, a disclosure will be valid for three months from the date of issue.

12.2 Any applicant for a licence will have to complete a tax check.

[COMPLETE A TAX CHECK FOR A TAXI, PRIVATE HIRE OR SCRAP METAL LICENCE - GOV.UK \(WWW.GOV.UK\)](http://WWW.GOV.UK)

12.3 A licence once granted will be valid for three years.

12.4 A renewal application must be received before the expiry of the current licence.

12.5 If a licence application is refused, the licence expires when no appeal is possible, or an appeal is determined or withdrawn.

12.6 A licence may be varied from one type to another i.e., site licence to collector's licence.

12.7 A variation licence must be made to reflect changes to the name of the licensee, site manager or sites on a site licence or name of the licensee on a collector's licence.

12.8 A variation cannot be used to transfer the licence to another person only amend the name of the licence holder.

12.9 When in receipt of a renewal application, which is subsequently withdrawn, the licence expires at the end of the day on which the application was withdrawn.

- 12.10 Tonbridge and Malling Borough Council may request additional information is provided for the consideration of the application. Failure to provide such information may result in the application being refused.
- 12.11 If Tonbridge and Malling Borough Council proposes to refuse an application, revoke or to vary a licence by imposing conditions, a notice will be issued to the licence holder setting out the Council's proposals and the reasons for the decisions. The notice will indicate details of the Licensing and Appeals panel hearing date, where the applicant or licence holder can either make written or oral representation about the proposal or inform the council that the application or licence holder wishes to do so.
- 12.12 This time must not be less than 14 days beginning on the day the notice was given to the applicant or licence holder. Tonbridge and Malling Council will stipulate a time of 21 days for representations or intentions to be received.
- 12.13 If a notification is received that the applicant or licence holder wishes to make representation, the Council must allow a reasonable period for them to make their representation. The Council will allow 14 days for written representations to be received from the date the application becomes contested, or the Council receives notification of the applicant having a relevant offence. The applicant or licensee may wish to make an oral representation; if this is the case the person must notify the Council within the 14-day time. If this time lapses, without a written representation, or a request for an oral representation being received, the Council may refuse, revoke, or vary the licence.
- 12.14 Where there is a representation a hearing will be arranged, and the case will be presented before the Licensing and Appeals panel, the applicant or licence holder will be invited to attend. The Council will give at least ten working days' notice of the date and time of the hearing to the applicant or licence holder. Any decisions made at this hearing will be given to the application or licence holder in writing outlining the decision and the reasons.
- 12.15 An applicant or licence holder may appeal to the magistrate's court against a refusal of an application or a variation. Any appeal must be lodged with the magistrate's courts within 21 days of receipt of the decision notice.

13 REVOCATION AND IMPOSING CONDITIONS

- 13.1 The Council may revoke a scrap metal licence if it is satisfied the licence holder does not carry on a scrap metal business at any of the sites named on the licence.

- 13.2 The Council may revoke a scrap metal licence if it is satisfied the site manager named on the licence does not act as a site manager at any of the named sites on the licence.
- 13.3 The Council may revoke a scrap metal licence if it is no longer satisfied the licence holder is no longer a suitable person to carry on the business.
- 13.4 If the licence holder or site manager named on a licence is convicted of a relevant offence the Council may impose one or both of the following conditions
- The dealer must not receive scrap metal except between the hours of 9am and 5pm on any day.
 - All Scrap metal must be kept in the form in which it was received for a specified period not exceeding 72 hours, beginning with the time it was received.
- 13.5 A revocation or variation only comes into effect when no appeal under the Act is possible or when such appeal has been determined or withdrawn.
- 13.6 If the Council considers the licence should not continue without the addition of one or more conditions in section 13.4 the licence holder will be given notice that until the revocation comes into effect the licence is subject to one or both conditions or that a variation comes into immediate effect.

14 CLOSURE OF UNLICENSED SITES

- 14.1 If an authorised officer of the council is satisfied premises are being used by a scrap metal dealer during their business and premises are unlicensed, they may issue a closure notice. A copy of this notice will be given to the person who appears to be the site manager and any person who appears to be a director, manager or other officer of the business.
- 14.2 A copy of this notice may also be given to any person who has an interest in the business, a person who occupies part of the premises, or where the closure may impede a person's access to other parts of the premises.
- 14.3 After a period of seven days, the authorised officer of the Council may apply to a justice of the peace for a closure order. The Court must be satisfied the premises will continue to be used by a scrap metal dealer, or there is a reasonable likelihood that the premises will be. A closure order will close the premises immediately and the premises will remain closed to the public until the Council makes a termination of the closure order by certificate. The scrap metal dealer must cease their business immediately. It will require the

defendant to pay a sum into the court, which will not be released until the person has complied with the requirements of the order.

- 14.4 Such an order may have a condition relating to the admission of people into the premise or may include a provision the court considers appropriate.
- 14.5 A copy of the order must be placed on the premises in a prominent position by the Council.
- 14.6 Once the requirements of the order have been complied with and the Council is satisfied the need for the order has ceased, a certificate may be made. This ceases the order and the sum of money paid into the court is released.
- 14.7 A copy of the certificate must be given to any person the closure order was made against and a copy must also be given to the court and placed on the premises. A copy must also be given to anyone who requests one.
- 14.8 Anyone issued with a closure order may complain to a justice of the peace. The Court may discharge the order, if it is satisfied there is no longer a need for the closure order. The Council may be required by the Court to attend and answer the complaint made.
- 14.9 Appeals may be made to the Crown Court against closure order, decisions not to make a closure order, a discharge order of the decision not to make a discharge order. Any appeal must be lodged within 21 days beginning on the day on which the order or decision was made.
- 14.10 A person is guilty of an offence if they allow the premises to open in contravention of a closure order.
- 14.11 An authorised officer of the Council may enter the premises at any reasonable time to ensure compliance with the order. They may use reasonable force if necessary.
- 14.12 An authorised officer of the Council must produce evidence of their identity or evidence of their authority to exercise the powers under the Act if requested to do so.

15 ENFORCEMENT

- 15.1 It is the policy of Tonbridge and Malling Borough Council to ensure that scrap metal dealers are licensed correctly and carry out their trade in accordance with both the relevant law and the conditions (if any) attached to the licences.
- 15.2 Any enforcement action has regard for 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.

- 15.3 All enforcement action, be it verbal warnings, the issue of written warnings, appearance before the Licensing and Appeals 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.
- 15.4 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 Head of Service for Licensing, Community Safety and Customer Services or above before the decision is taken (unless it is considered that there is significant risk to the public in delaying the decision).
- 15.5 Officers will be authorised by the Head of Service for Licensing, Community Safety and Customer Services to take enforcement actions relevant and appropriate to their level of competence. Competency will be assessed individually by reference to qualifications and experience.
- 15.6 Achieving and maintaining a consistency of approach to making all decisions that concern Scrap Metal 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.
- 15.7 Enforcement decisions must always be consistent, balanced, and 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.
 - consequence of non-compliance.
 - likely effectiveness of the various enforcement options.
 - the economic consequences of enforcement
 - danger to the public.
- 15.8 Having considered all relevant information and evidence, the choices for action are:
- take no action.
 - take informal action.
 - revoke a licence.
 - vary a licence by way of including conditions on the licence.

- use simple cautions.
- prosecute.
- a combination of any of the above.

15.9 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.

15.10 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.
- 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.

15.11 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.

15.12 Before referring a matter to the Legal Section for possible prosecution, the Head of Service for Licensing, Community Safety and Customer Services 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.

15.13 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.

15.14 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.
- 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.

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

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

15.17 The purposes of the simple caution are: -

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

15.18 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).

- 15.19 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.
- 15.20 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.
- 15.21 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.
- 15.22 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.

16 REFERENCE INFORMATION

- 16.1 A copy of the **Scrap Metal Dealers Act 2013** can be found using this link:

<http://www.legislation.gov.uk/ukpga/2013/10/enacted>

- 16.2 A copy of the latest revision to the **Guidance for the Scrap Metal Dealers Act 2013**, updated on the 2 March 2023 can be found using this link:

[Scrap Metal Dealers Act 2013: supplementary guidance \(accessible\) - GOV.UK \(www.gov.uk\)](http://www.gov.uk/government/uploads/system/uploads/attachment_data/file/644444/Scrap_Metal_Dealers_Act_2013_supplementary_guidance_accessible.pdf)

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Feedback Form - Draft 'Scrap Metal Licensing Policy'

Respondent	Comment	Ref	Officers comments and recommendation to Licensing and Appeals Committee

Please email any feedback to licensing.services@tmhc.gov.uk

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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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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 12

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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