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# Hackney Carriage and Private Hire Licensing Policy 2023 2028

Revision 1.1 effective from 1 August 2026

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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 Licensing and Appeals Committee – 5 July 2023
- Public consultation – 10 July 2023 – 1 September 2023
- Licensing and Appeals Committee – 27 September 2023
- Full Council adopts policy – 24 October 2023
- New policy comes into force – 1 December 2023

## 1.3 Key changes to previous policy

- That all Hackney Carriage Vehicles must have working card payment facilities for credit/debit card payments (6.1.1 Page 33 of 106).
- Outsource the Disclosure and Barring Service (DBS) checks to an external third party, where a driver does not hold an online account update service. This policy will be updated with timings and the name of the external provider after the procurement process has been completed, with the implementation on the 1 April 2024 (4.6.5 Page 25 of 106).
- Reduce the length of time lost property is kept from 12 months to 2 months (3.31 Page 22 of 106).
- CCTV - Following the consultation on this policy in 2023, It is not proposed that measures such as CCTV cameras should be required as part of the licensing regime, however a commitment has been made for the licensing team to undertake some further research and report back to the Licensing and Appeals Committee, when a further consultation will be carried out (3.15.2 Page 16 of 106).
- Any Hackney Carriage driver failing to take a passenger on a journey, however short, or who charges more than the fare shown on the meter 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 (P52 Page 85 of 106).
- Remove membership of the Chauffeurs Guild as mechanism to bypass having to take the knowledge test.

- To allow plate exempt vehicles who undertake executive work to have rear side facing windows with a higher tint than 50 per cent. (8.4.2 Page 40 of 106).
- Designated Wheelchair assessable vehicles (WAV's) licensed as Hackney Carriage vehicle no longer have to meet the colour requirement of white or silver. (3.26.1 page 21 of 106)
- Updated operator requirements added. (5.9.23 Page 32 of 106)

## 1.3a Key changes following March 2026 revision

- Section 3.12 and corresponding detail in Appendix A is amended to add the requirement for door signage to Private Hire vehicles (unless exempt under Section 3.13)
- Section 4.6 is amended to remove reference to outsourcing Disclosure and Barring Service (DBS) checks.
- Section 4.7 is amended to make it mandatory that every licensed driver applicant and renewal applicant holds and maintains an on-line Certificate through The Update Service and that access permission is given to Tonbridge and Malling Borough Council in order to carry out checks every 6 months or more frequently should that be necessary.
- Section 4.11 is amended to reiterate that if a driver is convicted or bound over for any offence, they shall within 7 days give details in writing of the conviction or binding over to the Council.
- Appendix A Section 8.4 is amended to allow greater flexibility in respect of window specifications
- The licensing team delegations at Appendix O have been renewed to reflect the recent directorate change of the licensing team.

## 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.
- 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 Services 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.
- 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.
- 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](http://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 ([tmbc.gov.uk](http://tmbc.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.
- 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

The Council does not set a limit on the number of hackney carriages which it licences.

No powers exist for licensing authorities to limit the number of private hire vehicles which they licence.

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

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

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.

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

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.”*

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

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.

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.

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.

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.

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

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.

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.

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 Vehicle tax

- Failure to tax your vehicle will result in suspension of the licence until the vehicle is taxed.
- All vehicles are checked to ensure they have paid vehicle tax at the following web site:  
<https://www.gov.uk/check-vehicle-tax>

## 3.7 Environmental considerations

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.

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.

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

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

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

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.”

Wheelchair accessible vehicles (WAV’s) 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.”

The physical condition of a licensed vehicle is an important criterion 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.

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.

There is a restriction on the minimum number of seats to allow applications for vehicles with room for four passengers.

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

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.

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.

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.

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.

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

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.

When applying an original certificate needs to be sent in by email.

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.

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.

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

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

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.

This is a key feature in helping to identify vehicles that are properly licensed. The plate details Tonbridge and Malling Borough Council as the Licensing Authority, the vehicle make, model, colour and registration mark, the number of passengers the vehicle can carry and the expiry date of the licence.

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

Hackney carriage vehicles are required to display permanently affixed signage (insignia) to the front side doors of the vehicle. This signage contains the Council logo and the words "Hackney Carriage" and "TAXI" and shows the plate number.

Private hire vehicles (unless exempt under 3.13) are required to display permanently affixed signage (insignia) to the front side doors of the vehicle. This signage contains the Council logo and the words "Private Hire Vehicle" and "Pre booked only" and shows the plate number.

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

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.

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

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

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

## 3.14 Advertising

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

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)

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.

Following the consultation on this policy in 2023, it is not proposed that measures such as CCTV cameras should be required as part of the licensing regime, however a commitment has been made for the licensing team to undertake some further research and report back to the Licensing and Appeals Committee, when a further consultation will be carried out.

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/>

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

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.

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.

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.

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.

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

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

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.

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.

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.

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

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 event vehicles

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.

The Council considers the following types of vehicles to be Special Events Vehicles when considered in the context of licensing.

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

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.

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.

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.

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

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.

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](http://www.gov.uk/government/publications/private-hire-vehicle-licensing-guidance-note)

## 3.19 Funeral vehicles

There is no requirement for a vehicle to be licensed where it is being used in connection with a funeral or is

being wholly or mainly used by a person carrying on the business of a Funeral Director for the purpose of funerals.

## 3.20 Wedding vehicles

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.

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

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.

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

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

"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;"

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

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.

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

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

Hackney carriage vehicles must be wholly white wholly silver. With the exception of wheelchair accessible vehicles (WAV's) which can be any colour.

Private hire vehicles can be any colour.

## 3.27 Application procedure

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

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 licences

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.

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.

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 Application suitability

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

It is the responsibility of the Hackney Carriage and Private Hire Driver to check the vehicle for lost property frequently during their shift.

Lost property can be handed in at the Council Offices at Tonbridge Castle or Kings Hill.

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 2 months.

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

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

## 4.2 Age and experience

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.

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.

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

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

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.

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

## 4.4 Driving proficiency and qualifications

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.

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

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.

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.

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.

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.

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.

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.

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.

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

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.

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.

The applicant will be responsible for payment of the appropriate fee.

An Enhanced DBS check is required on applying and renewing their badge, using the level of "Taxi Driver," "Other Workforce."

For the immediate future we will be submitting forms, where an applicant does not hold an online account for the update service.

## 4.7 The Update Service

From 1<sup>st</sup> August 2026 every new licensed driver applicant shall hold and maintain an on-line Certificate through The Update Service. Six monthly DBS checks will then be carried out throughout the duration of a licence or more frequently should this be necessary.

From 1<sup>st</sup> August 2026 every licensed driver renewal applicant shall hold and maintain an on-line Certificate through The Update Service. Six monthly DBS checks will then be carried out throughout the duration of a licence or more frequently should this be necessary.

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.

You need to register to use the update service <https://www.gov.uk/dbs-update-service>

If you have 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.

If you have 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.

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.

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.

Information received from the Disclosure and Barring Service will normally be destroyed after a decision has been made concerning the application.

For more information on the retention and disposal of the DBS certificate please go online and see Tonbridge and Malling Borough Council's policy.

### **Referrals to the Disclosure and Barring Service and the Police**

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.

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.

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)**

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.'

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.

Tonbridge & Malling Borough Council are members and actively use the NR3 Taxi Licence Database.

## **4.9 Multiagency Safeguarding Hubs**

## **4.10 Tonbridge and Malling Borough Council**

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

A guide to the relevance of previous convictions, cautions and fixed penalty notices is in Appendix D.

The Council will consider each application on its merits having regard to this policy.

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.

**For the avoidance of doubt if a driver is convicted or bound over for any offence, they shall within 7 days give details in writing to the Council.**

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.

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.

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 granting the application.
- More than six points on their licence.

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.

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.

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

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.

The licensing team may request an applicant generates a "share code" from the following link in order to prove their right to work View and prove your immigration status: get a share code - GOV.UK ([www.gov.uk](http://www.gov.uk)).

## 4.13 Grant and renewal of licences

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.

The application procedure is set out in Appendix C.

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.

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

The Licensing Authority is not empowered to attach conditions to a hackney carriage driver, other than through Byelaws.

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.

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

The standards expected of licensed drivers are set out in the Code of Good Conduct, included in this policy document at Appendix H

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.

Repeated breaches following such advice or warnings may lead to more serious consequences including, if

necessary, non-renewal, suspension or revocation of licenses.

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

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.

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

A private hire vehicle may only be dispatched 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.

With the introduction of the Deregulation Act 2015 Private Hire Operators are allowed to subcontract work to other licensed Private Hire Operators who hold licences with a different Licensing Authority.

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

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.

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

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 Check

Any operator who does not hold a Tonbridge & Malling Drivers Licence needs to produce an Enhanced DBS certificate no more than 3 months old.

If the Operator's licence is to be held by a company, Basic DBS checks will be required for all partners or directors. 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.

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.

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

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

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

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.

Operators must keep records in respect of all bookings, vehicles, and drivers for a period of one year. Full details in Appendix I

Such records are to be made available to any authorised officer of the Council or a police officer upon request.

## 5.7 Insurance

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.

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

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.

An Operator's Licence issued by Tonbridge and Malling Borough Council will last for five years.

## 5.9 Address from which and Operator may operate

The operator must provide evidence that appropriate permissions (and public liability insurance if relevant) are in place at any new premises to ensure continuity of licence; and within seven days inform the Council in writing of a home address change taking place. If the appropriate permission or insurance is not in place, the licence may be revoked or suspended pending compliance.

Operators will be required to supply the Council with an up-to-date list of all vehicles and drivers working under that licence and of any changes to that list.

Full list of operator's application requirements:

Vehicle	Age criteria
DBS Certificates for Operators/Directors/Partners	Any operator who does not hold a Tonbridge & Malling Drivers Licence needs to produce an Enhanced DBS certificate no more than 3 months old. If the Operator's licence is to be held by a company, Basic DBS checks will be required for all partners or directors.
DBS Certificates for Dispatch & Booking Staff	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.
Policy on Protecting children & vulnerable adults	Operators should outline in a policy how they will protect children and vulnerable adults that may use their service. If bookings are outsourced, operators are required to evidence those comparable protections are applied by the company to which they outsource these functions.
Policy on employing ex-offenders	Operators or applicants for a licence should provide their policy on employing ex-offenders in roles such as Booking and dispatch staff. A list of relevant offences can be found in the councils Taxi & Private Hire Policy under Appendix J
*Safeguarding & Disability Awareness Training	*Whilst this training is not mandatory for all staff working for an operator, it is recommended.
Planning Permission	If your business trades from a home address, you are required to prove your right to trade from that address. If you operate from a business premises, you must provide planning permission. All trading addresses, whether it's a home address or business address MUST be within Tonbridge & Malling Borough.
Public Liability Insurance Certificate	Public Liability insurance is required for all operators
Register of non-licensed staff	Register of all staff, their role within the business and the documentation as outlined above.
Register of licensed drivers	Register of all licensed drivers working for your business, their badge numbers and the council who issue the licence (if not TMBC).
Register of licensed vehicles	Register of all TMBC licensed vehicles that operate for your business – both Private Hire & Hackney Carriage

# 6 Fares and Fees

## 6.1 Hackney Carriage

That all Hackney Carriage Vehicles must have working card payment facilities for credit/debit card payments.

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.

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.

Fares can be negotiated prior to the commencement of the journey in both private hire vehicles and hackney carriages.

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.

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.

These regulations in relation to fares do not apply to private hire vehicles.

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.

A hackney carriage driver must, if requested by the passenger, provide a written receipt for the fare paid. Minimum information required is Driver's name; Drivers Badge Number and Vehicle plate number; Date; Time and Total Fare charged.

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

Private hire fares are not regulated by the Licensing Authority.

## 6.3 Fees

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**

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.

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.

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.

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.

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**

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**

A full list of fees associated with the administration and issuing of licences is available on the Council's website.

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.

# 7 Disciplinary and enforcement

## 7.1 Enforcement

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.

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.

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

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

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

Hackney carriage vehicles and private hire vehicles must be kept at all times in an efficient, safe, tidy, and clean condition. Compliance with the vehicle specifications and conditions is essential and will be enforced by periodic, random vehicle inspections by the Council. Where it is found that any vehicle is not being properly

maintained, a defect(s) notice will be served on the proprietor setting out the defect(s) and where public safety is likely to be imperilled the further use of the vehicle will be suspended until the defects have been remedied. The suspension will then not be lifted until the vehicle has undergone a further test at the proprietor's expense and been passed as fit for use as a hackney carriage or private hire vehicle.

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

## 7.5 Revocation

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

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

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

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.

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 Council Officers take a consistent approach, in their application.

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 and owners or operators who see fit to ignore their responsibilities or fail to meet the requirements of the conditions.

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.

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

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

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

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

## 7.12 Taxi ranks

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

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)

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

## 7.14 Stands

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

## 7.15 Rights of appeal

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.

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.

# 8 Appendix A

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

### 8.1 General construction

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

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

When first licensed, all vehicles must be less than six years old from the date of first registration.

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."

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.

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

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.

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.

In the case of a hackney carriage, if in the opinion of an authorised officer the colour of the vehicle is not white or silver the vehicle will not be licensed.

Wheelchair accessible vehicles (WAV's) licensed as hackney carriages can be any colour.

In the case of a private hire vehicle any colour is permitted.

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.

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.

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.

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

Exact wording tbc

Plate exempt vehicles undertaking executive work are not required to meet rear window VLT criteria.

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

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

## 8.6 Tyres

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.

Run-flat tyres are acceptable on licensed vehicles.

'Space-saver' spare tyres are acceptable on licensed vehicles if they conform to the Original Manufacturers' Specification.

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

Original Manufacturers' Specification 'tyre repair kits/compressor' are permitted within licensed vehicles provided they comply with the relevant British Standards.

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.

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.

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

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

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.

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

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.

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

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

## 8.11 Fire extinguishers

Preferred

## 8.12 First aid equipment

Preferred

## 8.13 Communications devices

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>

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

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.

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

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

## 8.14 Mobile telephones

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 always stay in full control of your vehicle.

## 8.15 Identification plates

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

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.

External and internal plates remain the property of Tonbridge & Malling Borough Council and must be returned once expired, surrendered, suspended, or revoked.

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.

## 8.16 Insignia

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 "Hackney Carriage" and "TAXI" and shows the plate number.

Private hire vehicles are required to display permanently affixed signage (insignia) to the front side doors of the vehicle. This signage contains the Council logo and the words "Private Hire Vehicle" and "Pre booked only" and shows the plate number.

As per 3.13, Plate Exempt Private Hire vehicles, Limousines and Special Events Vehicle will be exempt from displaying door insignia.

## 8.17 Fittings

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

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

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.

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 vehicle

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).

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

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

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.

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.

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.

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

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.

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

## 8.22 Disability access

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.

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.

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

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.

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.

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.

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

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.

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)

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.

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.

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.

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

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

## 8.26 Roof sign – Hackney Carriage

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

The roof sign and lettering shall be of an appropriate size to enable it to be clearly identifiable to the public.

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.

The roof sign, other than those built-in to the vehicle, must be mounted on the roof and be adequately secured.

An additional internal illuminated “FOR HIRE” sign may be fitted in licensed hackney carriages, in a position approved by the Council. The signs illumination must be switched off when the vehicle has been hired.

# 9 APPENDIX B

## ADDITIONAL CONDITIONS FOR PRIVATE HIRE LIMOUSINES AND SPECIAL EVENT VEHICLES

### 9.1 Stretched Limousine Definition

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.

### 9.2 Licensing conditions

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.

### 9.3 Left hand drive

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

### 9.4 Seating

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

## 9.5 Roadworthiness

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

## 9.6 Insurance

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.

## 9.7 Tyres

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.

## 9.8 Vehicle testing

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.

## 9.9 Carrying of passengers

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

Passengers shall not be permitted to be carried on any seats in the driver's compartment.

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.

## 9.10 Advertising

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

## 9.11 Seatbelts

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.

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.

## 9.12 Provision of alcohol

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.

Persons under the age of 18 must not be served alcohol.

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.

## 9.13 Provision of entertainment

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.

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

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.

## 9.14 Luggage

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

## 9.15 Safety hammer

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.

## 9.16 Driver and operator licensing requirements

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.

All bookings for a limousine licensed as a private hire vehicle must be booked through the licensed private hire operator.

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.

All drivers and operators of limousines licensed as private hire vehicles are required to satisfy all appropriate requirements of this Policy.

## 9.17 Vehicle testing stations

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.

## 9.18 Special event vehicles

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.

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.

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.

## 9.19 Age of vehicle

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.

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.

## 9.20 Vehicle standards

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.

Left hand drive vehicles will be permitted,

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

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.

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.

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

## 9.21 Special event vehicle conditions

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

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.

The vehicle shall be maintained in a sound mechanical and structural condition at all times.

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.

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.

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.

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

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.

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.

## 9.22 Limitations of use

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.

Records of all work undertaken by a Special Events Vehicle must be recorded on the Private hire Operators Licence.

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.

Drivers of Special Events Vehicle are required to observe a formal dress code or appropriate attire for the nature of the vehicle.

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.

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.

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# 10 APPENDIX C

## VEHICLES

### 10.1 New licences and renewal licences

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

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

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.

All applications must be emailed to [licensing.services@tmhc.gov.uk](mailto:licensing.services@tmhc.gov.uk) necessary supporting documentation.

The relevant fee must also be paid.

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.

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. This test voucher will be sent to the applicant via email.

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.

## **10.2 Replacement vehicle – existing hackney carriage or private hire**

If, during the term of the vehicle licence, it becomes necessary to replace the existing vehicle with another, for example in the case of an accident, all of the supporting documents as detailed above must be submitted. A test voucher will then be issued and following a successful pass, a temporary licence plate will be issued.

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.

There will be an administration fee charged for this process which takes into account the supply of a new vehicle plate.

This service will only be undertaken through an approved replacement vehicle company specified by the proprietor's insurance company.

## **10.3 Transfer of an existing hackney carriage or private hire vehicle**

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.

A fee will be charged for this application.

# 11 APPENDIX D

## DRIVERS

### 11.1 Driver's application

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

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

All applications must be emailed to [licensing.services@tmbc.gov.uk](mailto:licensing.services@tmbc.gov.uk) with the necessary supporting documentation.

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

For all applications you will be required to complete the following –

- Pass the Knowledge Test (see Section Appendix F)

#### **Application form**

Available to print out and complete on the council's website. All application forms must be submitted via email.

#### **DVLA application**

Available to print out and complete on the council's website. All application forms must be submitted via email. For this form you will need to generate a DVLA check code from the gov.uk website. Full details are on the form.

#### **Details of residency form**

Available to print out and complete on the council's website. All application forms must be submitted via email.

#### **Previous convictions questionnaire**

Available to print out and complete on the council's website. All application forms must be submitted via email. On this form you will need to declare any convictions you have received in the past. Depending on the time since the conviction, it could affect your chance of being granted a licence. Full details about previous convictions can be found in the council's Taxi and Private Hire policy.

## **Application fee**

The correct fee must be paid once all the application forms have been submitted in order to validate your application.

## **Disclosure and Barring Service (DBS) form**

The DBS Application form can be completed by the Licensing Team follow submission of your application. Should you wish to complete your own DBS Application prior to submitted your application form to us, you need to ensure the follow –

- The Application must be an ENHANCED DBS APPLICATION
- The Workforce applied for must be OTHER WORKFORCE TAXI DRIVER
- If you subscribe to the online DBS Update Service, we can only accept this if it meets the criteria above. We will also need to see the original certificate that the update service refers to in order to establish the certificate was clear of relevant convictions when it was issued. For further information, or to discuss your online DBS certificate, please contact the Licensing Team.

## **Taxi Driving Assessment Pass Certificate**

This can be completed before or after you have submitted your application forms. We recommend booking the Driving Assessment with Green Penny, however other providers may be accepted but you should discuss it with a Licensing Officer before booking.

If you already hold a Private Hire, Hackney Carriage or Dual Licence with another Authority, you may be exempt from completed the test as you are already a professional driver. You will need to provide a copy of your current licence when applying.

## **Online child sexual exploitation and safeguarding training course**

This can be completed before or after you have submitted your application forms.

## **Take an online Disability equality training course**

This can be completed before or after you have submitted your application forms.

## **A group 2 medical**

Once you have submitted your application via email and made the necessary payments, you will be provided with the medical forms so you can make an appointment with a doctor.

## **Identification documents**

When submitting your application, you will be required to submit a number of ID documents. Please ensure you have all the correct documents; they are current, and all the information is up to date.

- Passport
- Residence Permit (if not a British Citizen)
- A document showing your National Insurance Number
- DVLA Driving Licence
- Document showing your current address (this must be less than 3 months old)
- If you do not have a passport, you may be required to produce your Birth Certificate and Marriage Certificate (if necessary to show a change of name from birth)

## Online training requirements

As part of the application process, you are required to carry out online training for two topics.

- Child Sexual Exploitation and Safeguarding
- Disability equality Training

We recommend these courses are carried out with The Blue Lamp Trust, however other providers may be accepted but you should discuss it with a Licensing Officer before booking.

### Child Sexual Exploitation and Safeguarding

(You must complete the Virtual Classroom Course) Course Length – 2.5 Hours

The course aims to provide Hackney Carriage and Private Hire drivers with a knowledge and understanding of Safeguarding, their responsibilities and best practice protocols.

### Disability Equality Training

(You must complete the Virtual Classroom Course)

Course Length – 3 Hours

The course aims to provide Hackney Carriage and Private Hire drivers with a knowledge and understanding of disabilities, their responsibilities and best practice protocols to provide safe and secure transport to all passengers.

Following the successful completion of both courses, you will need to send us copies of your certificates.

## Submitting your application

All applications must be submitted via email to:

[Licensing.services@tmbc.gov.uk](mailto:Licensing.services@tmbc.gov.uk)

If you can scan the forms, you should, otherwise please take photographs. They should be clear and show the whole document you are photographing, up close and in focus. We need to be able to read all the details, if the forms are not clear you will be asked to resend them.

Once your application has been checked and validated, you will be asked to make a telephone payment for the full cost of the application. Please note, there are no refunds for withdrawn or refused applications. An appointment will then be made for you to attend the Council offices so we can complete your Disclosure and Barring Service (DBS) application form and take our photograph for your badge.

Following your appointment, you will be sent the Group 2 Medical form which will contain your Name, address, date of birth and photograph. You must complete the Medical with a registered doctor and return the sign, dated and stamped form to us for our records.

Once you receive your DBS certificate in the post, you must give us the original certificate, we cannot accept photocopies or via email. When we grant your licence, it will be returned to you.

## Granting your licence

Following the receipt of your completed medical form and your DBS certificate, we will now be able to determine your application. If all the information is satisfactory, your licence will be granted, and you will be issued with an ID badge and a paper licence. If for any reason information has been received that prevents us from granting you a licence, a Licensing Officer will call to discuss this with you.

Once your application has been granted and you are in possession of your badge, you may commence work as a Licensed Driver, driving Tonbridge & Malling Licensed Vehicles.

If you would like to licence your own vehicle, please refer to the Council's current Hackney carriage and Private Hire Taxi policy for the full details and requirements. The application forms can be found on the council's website.

## 11.3 Private Hire Operators

For full details on applying for an operator's licence, please see section 5.9

## 11.4 Applications general

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.

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.

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

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.

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)

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

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.

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

## GUIDELINES RELATING TO THE RELEVANCE OF PREVIOUS CONVICTIONS

### 12.1 General policy

Each case will be decided on its own merits.

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.

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.

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.

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.

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.

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

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.

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)

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.

## 12.2 Offences of dishonesty

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.

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.

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.

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 1
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 perception	Fraud Act 2006 Section 5
Any other offence involving dishonesty	Dependent on offence

And the conviction is less than 7 years prior to the date of the application.

## 12.3 Violence

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.

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 Person Act 1861 Section 18-20
Grievous bodily harm with intent	Offences Against the Person Act 1861 Section 18-20
Actual bodily harm	Offences Against the Person Act 1861 Section 47

And the conviction is less than 10 years prior to the date of application.

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

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.

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.

## 12.4 Drugs

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.

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.

## 12.5 Drunkenness not in a motor vehicle

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

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

## 12.6 Sexual offences

Where an applicant has a conviction for any offence involving or connected with illegal sexual activity, a licence will not be granted.

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 Section 9-13
Buggery	Sexual Offences Act 1956 Section 12
Persistently soliciting a women for prostitution	Sexual Offences Act 2003 Section 15A
On the sex offenders register	Sexual Offences Act 2003

### Exploitation

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.

## 12.7 Motoring convictions

### Major Traffic Offences

An isolated conviction, without disqualification, for an offence such as dangerous driving or driving without due care and attention will require careful consideration of the facts and will at the very least merit a warning as to future driving and advice on the standard expected of hackney carriage and private hire vehicle drivers.

However, where the conviction is within 6 months prior to the date of the application the application will normally be refused.

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

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

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
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)

## 12.8 Drunkenness involving a motor vehicle

A serious view will be taken of convictions of driving or being in charge of a vehicle while under the influence of drink. Where a disqualification has occurred as a result of a drink-driving offence, at least 7 years free from conviction should elapse after the restoration of the DVLA licence before an applicant is granted a licence.

An isolated conviction for drunkenness, without disqualification, will require careful consideration of the facts and will at the very least merit a warning as to future driving and advice on the standard expected of hackney carriage and private hire vehicle drivers. More than one conviction for this type of offence or one such offence within the last 7 years is likely to merit refusal.

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.

## 12.9 Drink driving/driving under the influence of drugs

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.

## 12.10 Minor traffic offences

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

In particular, an application will normally be refused where the applicant has 6 or more penalty points on his DVLA

licence (whether or not the applicant was convicted by a court for the offences for which the points were imposed) or where the applicant has more than one conviction for this type of offence within the last 6 months. All applications with 6 or more points will be considered by the Licensing and Community Safety Manager to determine appropriate action.

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

Offence code	Description of offence
MS60	Leaving a vehicle in a dangerous position
MS20	Unlawful pillion riding
MS30	Play street Offences
MS40	Driving with uncorrected defective eyesight or refusing to submit to a test
MS70	Driving with uncorrected defective eyesight
MS80	Refusing to submit to an eyesight test
MS90	Failure to give information as to identity of driver, etc.
MW10	Contravention of Special Road Regulations (excluding speed limits)
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)

## 12.11 Hybrid traffic offences

Offences of the type listed below will be treated as major traffic offences if the court awarded 4 or more penalty points for the offence and as minor traffic offences if the court awarded 3 or less penalty points for the offence.

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)
CU40	Using a vehicle with defective steering
CU40	Using a vehicle with defective steering
CU50	Causing or likely to cause danger by reason of load or passengers
CU80	Breach of requirements as to control of the vehicle, mobile telephone etc.
SP10	Exceeding goods vehicle speed limit
SP20	Exceeding speed limit for type of vehicle (excluding goods or passenger vehicles)
SP30	Exceeding statutory speed limit on a public road
SP40	Exceeding passenger vehicle speed limit
SP50	Exceeding speed limit on a motorway
SP60	Undefined speed limit offence

#### **Aiding, abetting, counselling, or procuring.**

Offences as coded above, but with 0 changed to 2 (e.g., CU10 become CU12)

#### **Causing or permitting**

Offences as coded above, but with 0 changed to 4 (e.g., CU10 becomes CU14)

#### **Inciting**

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

## 12.12 Using a hand-held device while driving

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.

## 12.13 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. <b>Over 6 points on your licence</b>	Licensing Officer discretion (depending on the offence) <b>You will be required to attend a Hearing</b>
Hybrid	Up to and including 6 points on your licence. <b>Over 6 points on your licence (Except Speeding)</b>	Licensing Officer discretion (depending on the offence) <b>You will be required to attend a Hearing</b>

Speeding Offences	SP (Speeding offences) - Up to and including 9 points on your licence. <b>SP (Speeding offences) - Over 9 points on your licence</b>	Licensing Officer discretion <b>You will be required to attend a Hearing</b>
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## 12.14 Disqualification

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.

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.

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.

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

One of the main purposes of the licensing regime set out in the Town Police Clauses Acts and Part II of the Local Government (Miscellaneous Provisions) Act 1976 ("the Acts") is to ensure the protection of the public. For this reason, a serious view is taken of convictions for offences under the Acts (including illegally plying for hire) when deciding whether an applicant is to be treated as a fit and proper person to hold a licence.

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.

## 12.16 Spent Convictions and the Principles of The Rehabilitation of Offenders Act 1974

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.

The possibility of rehabilitation and the length of time before rehabilitation occurs is dependent on the sentence imposed, and not the offence committed.

Where a person is sentenced to imprisonment for a period exceeding thirty months, the conviction can never be spent.

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.

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.

The determination as to whether certain convictions are spent, therefore, may be a relevant exercise.

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
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

## DRIVER KNOWLEDGE TEST

### 13.1 Introduction

All new applicants for either a private hire, dual or hackney drivers' badge will need to take a written knowledge test.

Applicants wishing to sit the Knowledge Test should complete the booking form which can be found on the council's website and pay the appropriate fee in order to be allocated a place on the next available Knowledge Test.

After a booking form and fee has been completed, candidates must sit at least one test in a six-month period.

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.

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.

A candidate can retake the Test until they reach the required pass mark as long as the required fee is paid for each resit.

Knowledge Test will be held a minimum of four times per year.

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.

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.

Tests will be marked within 7 days and applicants will be informed of the result by email.

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.

### 13.2 The Knowledge Test

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

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.

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# 14 APPENDIX G

## PRIVATE HIRE DRIVERS

### LICENCE CONDITIONS

#### 14.1 Conduct of Drivers

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

The driver shall be respectably dressed, clean and tidy in appearance at all times whilst his vehicle is being made available for hire.

The driver shall at all times, when acting in accordance with the driver's 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.

The driver shall not lend the badge to any other person or cause or permit any other person to wear it.

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 cease, the licence expires or is not renewed, or where the licence is suspended or revoked.

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.

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.

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.

The driver when hired to drive to a particular destination shall proceed to that destination by the shortest available route.

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.

The driver shall convey a reasonable amount of luggage and afford reasonable assistance in loading and unloading luggage.

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.

The vehicle shall be presented in a clean and tidy condition for each journey.

The private hire vehicle must only be driven with the consent of the proprietor of the vehicle.

The driver must not drink or eat in the vehicle whilst in the presence of customers.

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.

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.

The driver shall not operate the horn late at night as a means of signalling that the vehicle has arrived.

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.

It is illegal to use a handheld 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.

Drivers must not use a mobile phone whilst driving unless it is designed for hand-free operation.

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 affected.

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.

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.

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.

The private hire driver's licence must be presented to the proprietor concerned at the beginning of the employment.

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 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

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.

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

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.

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

The driver/operator of a private hire vehicle may make their own agreement with the hirer as to the fare for a particular journey.

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

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 taximeter into action by moving the said key, flag, or other device, before beginning a journey and keep the machinery of the taximeter in action until the termination of the hiring.
- 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 taximeter 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 taximeter.

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 affected. If no such agreement was made then the fare to be charged should be no greater than that determined by the taximeter.

## 14.5 Wheelchair Accessible Vehicles

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

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# 15 APPENDIX H

## PENALTY POINT SYSTEM

### 15.1 Penalty points

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:

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.

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.

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.

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.

Points issued to either a proprietor or driver will be confirmed in writing.

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-month period will be taken into account.

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.

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.

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.

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.

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.

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.

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.

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

Two statutes principally create offences relating to hackney carriages and private hire vehicles –

- Town Police Clauses Act 1847
- Local Government (Miscellaneous Provisions) Act 1976

The offences are set out below under the relevant statute.

In relation to the maximum penalties specified, the levels of fine are currently as follows:

- Level 1 - £200
- Level 2 – £500
- Level 3 - £1,000
- Level 4 - £2,500

Any subsequent amendments to the legislation will supersede the tables below and this appendix may be amended to reflect the revised legislation by way of an addendum to this policy.

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
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
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 taximeter 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

<b>Breach of Policy Requirement consider reordering in category – Drivers – Vehicle – Operators etc.</b>			<b>Points</b>
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
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
P38	Carrying radio equipment or similar devices not in accordance with Council requirements	2
P39	Using a taximeter 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	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	9

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# 16 APPENDIX I

## CODE OF CONDUCT

### 16.1 Code of good conduct for licensed drivers

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

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."

### 16.5 At hackney carriage ranks, in addition to the requirement 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

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 handheld 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 number 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

Drivers should be aware of the powers the Council can enforce, by way of suspension, revocation, or refusal to renew a driver's licence where:

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

Licensed drivers are expected to be always polite and courteous and to comply with any reasonable request made by a Licensing or Civil Enforcement Officer. Verbal or physical abuse will not be tolerated.

# 17 APPENDIX J

## PRIVATE HIRE OPERATORS

### LICENCE CONDITIONS

#### 17.1 Standards of Service

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 require 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:
  - Crimes resulting in death.
  - Exploitation
  - Offences involving violence against the person.
  - Possession of a weapon
  - Sexual offences
  - Dishonesty
  - Drugs
  - Discrimination
  - Motoring convictions
  - Drink driving/driving under the influence of drugs
  - Using a hand-held device whilst driving

#### 17.2 Records

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.

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.

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.

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

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:

- the name of the passenger.
- the time of the request.
- the pick-up point.
- the destination.
- the name of the driver.
- the driver's licence number.
- the vehicle registration number of the vehicle.
- the name of any individual that responded to the booking request.
- the name of any individual that dispatched the vehicle.

Booking records should be retained for a minimum of six months.

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

## 17.4 Vehicles

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

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

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.

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

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.

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 driver's licences

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

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.

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.

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.

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.

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.

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# 18 APPENDIX K

## ENFORCEMENT POLICY

### 18.1 Hackney Carriage and Private Hire Enforcement Policy

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.

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,

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.

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).

Authorised officers must be fully acquainted with the requirements of the policy and appropriate training will be provided where required.

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

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.

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.

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.

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

## 18.3 Informal action

Informal action to secure compliance with legislation includes offering advice, verbal and written warnings and requests for action and the use of letters.

Such informal enforcement action may be appropriate in any of the following circumstances: -

- the act or omission is not serious enough to warrant more formal action.
- it can be reasonably expected that informal action will achieve compliance, perhaps by taking into account the individual driver or operator's past history.
- confidence in the operator's management is high.
- the consequences of non-compliance will not pose a significant risk to the safety of the public.

Even where some of the above criteria are not met, there may be circumstances in which informal action will be more effective than a formal approach.

## 18.4 Appearance before the Licensing and Appeals Panel

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.

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.

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)

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.

An authorised officer may, in addition to requiring the vehicle to be tested, suspend the vehicle licence until such time as he is satisfied with the condition of the hackney carriage or private hire vehicle. This action will only be taken when he has reasonable grounds to suspect that the condition of the vehicle is an immediate danger to passenger and/or other road users.

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.

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

Appeals against decisions of the Licensing and Appeals Panel or authorised officers may be made to the Magistrates' Court.

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.

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

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.

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.

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.

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.

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.

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 of 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

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

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.

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).

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

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.

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.

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

## APPEALS

### 19.1 GROUNDS FOR APPEAL TO MAGISTRATES' COURT

#### **An Appeal**

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.

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

## COMPLAINTS

### 20.1 Taxi and private hire complaints procedure

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

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# 21 APPENDIX N

## RELEVANT LEGISLATION

SUMMARY OF LEGISLATION – TOWN POLICE CLAUSES ACT 1847

Section 46 Driver not to act without first obtaining a licence	No person shall act as a driver of any hackney carriage without first obtaining a licence
Section 48 Proprietors to retain licences of drivers and produce the same before justices' on complaint	Proprietors must retain licences of drivers while they remain in his employment. Where the proprietor of a hackney carriage is summoned before a justice or to produce the driver he shall also produce the licence of the driver if he is in his employment
Section 52 Penalty for neglect or refusing to exhibit the prescribed number of passengers	If the proprietor, or driver of any hackney carriage permits the same to be used, employed, stand or ply for hire without having the number of persons to be carried displayed in the in the prescribed manner
Section 53 Penalty on driver for refusing to drive	The driver of any hackney carriage standing at any stands for hackney carriages or in any street, without reasonable excuse shall not refuse or neglect to drive such carriage to any place within the prescribed distance
Section 54 Demanding more than the sum agreed	Proprietors or drivers of hackney carriages or any person on his behalf is not permitted to exact or demand more than the fare agreed
Section 55 Payment of more than the legal fare	No agreement whatsoever shall be made between the driver or with any person having or pretending to have the care of any such hackney carriage, for the payment of more than the fare allowed by any byelaw or Act
Section 56 Agreement to carry passengers a discretionary distance for a fixed sum	If the proprietor or driver of any hackney carriage, or any other person on his behalf, agrees to carry persons for a distance at the discretion of the proprietor or driver, and for a sum agreed upon, he shall not carry those persons for a lesser distance than would be allowed by the sum agreed according to the scale of fares in force
Section 57 Deposits made for hackney carriages required to wait	When a hackney carriage is hired and taken to any place, and the driver is required to wait by the hirer, the driver may demand his fare for driving to such place, and a fare for the waiting period

Section 59 Persons riding without the consent of the hirer	No proprietor or driver of any hackney carriage which is hired, shall not without the express consent of the person hiring the said hackney carriage permit any other person to be carried in such hackney carriage
Section 60 No unauthorised person to act as driver	No authorised driver of a hackney carriage shall allow any person, whether licensed or not, to act as the driver of any hackney carriage without the consent of the proprietor
Section 61 Drunkenness and furious driving	No driver or any other person having or pretending to have the care of any such hackney carriage shall do so whilst intoxicated, or drive in a wanton and furious manner, or by any other wilful misconduct injure or endanger any person in his life limb or property
Section 62 Carriages being left at places of public resort	A driver of any hackney carriage may not leave it in any street or any place or public resort or entertainment, whether it be hired or not, without someone proper to take care of it
Section 64 Drivers obstructing other drivers	Any driver of any hackney carriage shall not obstruct or hinder any driver of any carriage in taking up or setting down any person into or from that carriage, nor shall they, in a forcible manner prevent or endeavour the driver of any other hackney carriage from being hired

**LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976**

Section 46 Vehicle, driver, and operator's licences	<p>No person being the proprietor of any vehicle not being a hackney carriage in respect of which a vehicle licence is in force, shall use or permit the same to be used in a controlled district as a private hire vehicle without having for such a vehicle a current licence under section 48 of this Act.</p> <p>No person shall act in a controlled district as a driver of any private hire vehicle without having a current licence under section 51 of this Act.</p> <p>No person being the proprietor of a private hire vehicle licensed under this part of this Act shall employ as the driver thereof for the purpose of any hiring any person who does not have a current licence under the said section 51.</p> <p>No person in a controlled district shall operate any vehicle as a private hire vehicle without having obtained a current licence under section 55 of this Act.</p> <p>No person licensed under the said section 55 shall in a controlled district operate any vehicle as a private hire vehicle – (i) if the vehicle does not have a current licence under section 48 of this Act (ii) if the driver does not have current licence under section 51 of this Act</p>
Section 49	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

Transfer of hackney carriage and private hire vehicles	vehicle. Such notification shall specify the name and address of the person to whom the hackney carriage or private hire vehicle has been transferred
Section 50 Provisions as to proprietors	<p>(1) The proprietor of any hackney carriage or private hire vehicle licensed by a district council shall present such hackney carriage or private hire vehicle for inspection and testing by or on behalf of the council within such period and at such place within the area of the council as they may by notice reasonably require</p> <p>(2) The proprietor of any hackney carriage or private hire vehicle shall, within such period as the district council may by notice reasonably require, state in writing the address of every place where such hackney carriage or private hire vehicle is kept when not in use</p> <p>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 (4) The proprietor of any hackney carriage or private hire vehicle licensed by a district council shall at the request of any authorised officer of the council produce for inspection the vehicle licence for such hackney carriage or private hire vehicle and the Certificate of Policy of Insurance or security required by the Road Traffic Acts in respect of such hackney carriage or private hire vehicle.</p>
Section 53 Drivers' licences for hackney carriage and private hire vehicles	<p>The driver of any hackney carriage or of any private hire vehicle licensed by a district council shall at the request of any authorised officer of the council or of any constable produce for inspection his drivers' licence 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 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 driver's badges	A driver shall at all times when acting in accordance with a driver's 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</p>

	<p>produce the same on request to any authorised officer of the council or constable for inspection</p> <p>A person to whom a licence has been granted under this Act shall produce the licence on request to any authorised officer of the council or constable for inspection</p>
Section 57 power to require applicants to submit information	Any applicant for a licence under the Act of 1847 and this part of this Act shall submit to a district council such information as they may reasonably consider necessary to enable them to determine whether the licence should be granted and whether conditions should be attached to any licence
Section 58 Return of identity plate or disc on revocation or expiry of licence	<p>(a) On the revocation or expiry of a vehicle licence in relation to a hackney carriage or private hire vehicle</p> <p>The suspension of a licence under section 68 of this Act</p> <p>The proprietor of the hackney carriage or private hire vehicle shall, on request of the district council issuing the licence, return within 7 days to the council the plate or disc</p>
Section 59 Qualifications for drivers of hackney carriages	A person must be authorised to drive a motor vehicle under Part III of the Road Traffic Acts for a minimum of twelve months prior to the application for a driver licence
Section 64 Fares for long journeys	A driver of a hackney carriage must not charge a fare for a journey ending outside the licensing district, greater than that agreed before the hiring was affected 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>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 O

# OFFICER DELEGATIONS

## 22.1 Delegations

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:

DPHEH 700	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
DPHEH 701	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
DPHEH 702	To take all enforcement action including the power to suspend/ revoke: <i>(i)</i> vehicle licences <i>(ii)</i> drivers' licences <i>(iii)</i> operators' licences Under the Local Government (Miscellaneous Provisions) Act 1976, including where the suspension is to have immediate effect.	C

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