

Agenda

Policy and Resources Committee Meeting

Date: Wednesday, 10 September 2025
Time 7.00 pm
Venue: Council Chamber, Swale House, East Street, Sittingbourne, ME10 3HT

Membership:

Councillors Mike Baldock, Lloyd Bowen (Vice-Chair), Charles Gibson, Tim Gibson (Chair), Angela Harrison, James Hunt, Elliott Jayes, Mark Last, Rich Lehmann, Ben J Martin, Kieran Mishchuk, Richard Palmer, Julien Speed, Ashley Wise and Dolley Wooster.

Quorum = 5

Pages

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 - (d) Anyone unable to use the stairs should make themselves known during this agenda item.
- 2. Apologies for Absence
 - 3. Minutes

To approve the [Minutes](#) of the Meeting held on 12 June 2025 (Minute Nos. 49 – 68) and the [Minutes](#) of the Extraordinary Meeting held on 21 July 2025 (Minute Nos. 208 – 212) as correct records.

4. Declarations of Interest

Councillors should not act or take decisions in order to gain financial or other material benefits for themselves, their families or friends.

The Chair will ask Members if they have any disclosable pecuniary interests (DPIs) or disclosable non-pecuniary interests (DNPIS) to declare in respect of items on the agenda. Members with a DPI in an item must leave the room for that item and may not participate in the debate or vote.

Aside from disclosable interests, where a fair-minded and informed observer would think there was a real possibility that a Member might be biased or predetermined on an item, the Member should declare this and leave the room while that item is considered.

Members who are in any doubt about interests, bias or predetermination should contact the monitoring officer for advice prior to the meeting.

5. Matters Arising

Update from the Chair on any matters from the previous meeting or upcoming agenda items relating to this committee.

Items for Noting

- 6. Recommendations from the Planning and Transportation Policy Working Group Meeting held on 15 July 2025 5 - 6
- 7. Forward Decisions Plan 7 - 8

Items for Decision by the Committee

- 8. Revisions to the Covert Surveillance and Access to Communications Data Policy and Guidance Notes 9 - 38

9.	Public Consultation Policy Statement, Member guidance, public guidance and officer toolkit	39 - 70
10.	Treasury Management Strategy 2025/26 Update	71 - 80
11.	Annual Delivery Plan 2025/26	81 - 92
12.	New and Amended Fees for Applications made to the Planning Service	93 - 116
13.	Hackney Carriage and Private Hire Licensing Policy 2025 - 2030	117 - 216
14.	Constitution Update	217 - 222
15.	Leisure Contract Capital Investment	223 - 228
16.	Procurement of Build Contract for Cockleshell Walk, Sittingbourne	229 - 234
17.	Exclusion of the Press and Public	

To decide whether to pass the resolution set out below in respect of the following item:

That under Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in Paragraph 3.

3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).

18.	Exempt Appendices I and II - Procurement of Build Contract for Cockleshell Walk, Sittingbourne	235 - 240
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Issued on Tuesday, 2 September 2025

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**Chief Executive, Swale Borough Council,
Swale House, East Street, Sittingbourne, Kent, ME10 3HT**

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Recommendations for noting

Planning and Transportation Policy Working Group – 15 July 2025.

Minute No. 189 - Local Plan Review – Timetabling and Way Forward.

- (1) That the exceptional level and prohibitive nature of work required to meet the milestones in the current Local Development Scheme (LDS) be noted.*
- (2) That an advisory visit from the Planning Inspectorate be brought forward.*

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Policy and Resources Committee Forward Decisions Plan – September 2025

Report title, background information and recommendation(s)	Date of meeting	Open or exempt	Lead Officer and report author
Risk Management Update – Q1 & Q2	5 November 2025	Open	Lead Officer: Georgia Harvey Head of Service: Kathy Woodward
Reducing Permissive Environments Policy – sign off	5 November 2025	Open	Lead Officer: Stephanie Curtis Head of Service: Charlotte Hudson
Swale Good Causes Lottery Anti-Money Laundering Policy	5 November 2025	Open	Lead Officer: Stephanie Curtis Head of Service: Charlotte Hudson
Swale Good Causes Lottery Operator Gambling Policy	5 November 2025	Open	Lead Officer: Stephanie Curtis Head of Service: Charlotte Hudson
Statement of Licensing Policy – Policy Adoption	5 November 2025	Open	Lead Officer: Stephanie Curtis Head of Service: Charlotte Hudson
Customer Experience Strategy	5 November 2025	Open	Lead Officer: Andre Bowen Head of Service: Charlotte Hudson
Statement of Community Involvement – for Adoption	5 November 2025	Open	Lead Officers: Anna Stonor and Chris Mansfield Head of Service: Natalie Earl
South Thames Gateway Building Control – Draft Business Plan	5 November 2025	Open	Lead Officer: Joanne Johnson Head of Service: Joanne Johnson
Graveney Bridge – Conservation Area Appraisal	4 February 2026	Open	Lead Officer: Jhilmil Kishore Head of Service: David Lane

Graveney Church – Conservation Area Appraisal	4 February 2026	Open	Lead Officer: Jhilmil Kishore Head of Service: David Lane
Goodneston Graveney – Conservation Area Appraisal	4 February 2026	Open	Lead Officer: Jhilmil Kishore Head of Service: David Lane
Local Heritage List – Recommendations from 2025 Call	4 February 2026	Open	Lead Officer: Jhilmil Kishore Head of Service: David Lane
Domestic Abuse Policy Refresh – sign off	11 March 2026	Open	Lead Officer: Stephanie Curtis Head of Service: Charlotte Hudson
Risk Management Update – Q3 & Q4	11 March 2026	Open	Lead Officer: Georgia Harvey Head of Service: Kathy Woodward
Annual Risk Management Report – 2025/2026	TBC	Open	Lead Officer: Georgia Harvey Head of Service: Kathy Woodward

Policy and Resources Committee	
Meeting Date	10 September 2025
Report Title	Revisions to the Covert Surveillance and Access to Communications Data Policy and Guidance Notes
EMT Lead	Larissa Reed - Chief Executive
Head of Service	Claudette Valmond – Head of Mid-Kent Legal Services
Lead Officer	Gary Rowland – Team Leader Corporate Governance and RIPA Co-ordinating Officer
Classification	Open
Recommendations	1. That the Covert Surveillance and Access to Communications Data Policy and Guidance Notes for 2025/26 be approved by the Policy and Resources Committee.

1 Purpose of Report and Executive Summary

- 1.1 As the Council's RIPA Co-ordinating Officer, I am required to review and revise the Council's Covert Surveillance Policy ('the Policy'), where necessary, every year. Having reviewed the Policy for 2025/26, I have set out my proposed revisions by way of tracked changes to the current policy at Appendix I.

The Committee are asked to approve the proposed revisions to the Policy for 2025/26.

2 Background

- 2.1 The Home Office Covert Surveillance and Property Interference Revised Code of Practice 2018 makes it a requirement that the authority's elected members should review the Policy at least once a year.

- 2.2 The revised Policy, set out at Appendix I, has been revised as follows:

- that the role of Senior Responsible Officer ('SRO') be transferred to Emma Wiggins (Director of Regeneration and Neighbourhoods) from Larissa Reed (Chief Executive). The Investigatory Powers Commissioners' Office ('IPCO') have advised that the role of SRO should be to have general oversight of RIPA, to ensure the integrity of the process, and to audit and advise on any proposed authorisations. The SRO should not, for the purposes of covert surveillance, be an Authorising Officer.

The reason that a Chief Executive should not be the SRO is that they are the only person who can be an Authorising Officer for confidential information or juvenile Covert Human Intelligence Source ('CHIS').

3 Proposals

- 3.1 The Committee are asked to approve the proposed revisions to the Policy for 2025/26.

4 Alternative Options Considered and Rejected

- 4.1 The Committee may wish to make alternative or additional revisions to the 2025/26 Policy.

5 Consultation Undertaken or Proposed

N/A

6 Implications

Issue	Implications
Corporate Plan	No direct implications however the revised Policy will enable the Council to carry out surveillance in line with its values.
Financial, Resource and Property	There will be a cost to the Council as all applying and Authorising Officers will need to undertake training once in every three years.
Legal, Statutory and Procurement	Clear policy and guidance is necessary as failure to comply with the requirements of RIPA could lead to evidence in criminal proceedings not being admissible under the common law, section 78 of the Police and Criminal Evidence Act 1984 and the Human Rights Act 1998. It may also lead to proceedings being taken against the Council under the Human Rights Act 1998.
Crime and Disorder	The appropriate use of RIPA will enable the Council to provide evidence to support prosecutions in the public interest and tackle crime.
Environment and Climate/Ecological Emergency	None identified at this stage.
Health and Wellbeing	None identified at this stage.
Safeguarding of Children, Young People and Vulnerable Adults	None identified at this stage.
Risk Management and Health and Safety	Compliance with the Policy, together with the necessary training, will minimise the risks involved in carrying out covert surveillance and the associated risk of having critical information treated as inadmissible.
Equality and Diversity	This Policy treats all groups equally.
Privacy and Data Protection	No personal information is provided as part of this report.

7 Appendices

7.1 The following documents are to be published with this report and form part of the report:

- Appendix I: Proposed Covert Surveillance and Access to Communications Data Policy and Guidance Notes 2025/26

8 Background Papers

N/A

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COVERT SURVEILLANCE AND ACCESS TO COMMUNICATIONS DATA POLICY AND GUIDANCE NOTES

Scope

This policy document explains how the Council's officers will comply with the Regulation of Investigatory Powers Act 2000 (RIPA) and the Investigatory Powers Act 2016 in relation to directed surveillance, use of covert human intelligence sources and the acquisition of communications data.

This policy is supplementary to the legislation, the statutory code of practice and the Home Office guidance to local authorities in England and Wales on the judicial approval process for RIPA and the crime threshold for directed surveillances.

RIPA Senior Responsible Officer: ~~Chief Executive~~Director of Regeneration and Neighbourhoods

RIPA Co-ordinating Officer: Gary Rowland (Senior Legal Adviser, Corporate Governance)

Revised: ~~February 2024~~ September 2025
Review date: ~~February 2025~~ September 2026

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Appendices:

- A. Relevant legislation
- B. Authorisation Procedure Flowchart
- C. Authorisation control matrix

POLICY STATEMENT

The Regulation of Investigatory Powers Act 2000 (RIPA) provides the legislative framework within which covert surveillance must be conducted whilst the Investigatory Powers Act 2016 provides the legislative framework within which access to communications data operations must be conducted. This ensures that investigatory powers are used with minimal interference with an individual's human rights. This Policy Statement is intended as a practical reference guide for Council Officers who may be involved in such operations.

This Policy is supplementary to the:

- Home Office guidance on the use of covert surveillance or covert human intelligent sources (CHIS) - <https://www.gov.uk/government/publications/covert-surveillance-and-covert-human-intelligence-sources-codes-of-practice>
- Regulation of Investigatory Powers Act (RIPA) 2000 - <http://www.legislation.gov.uk/ukpga/2000/23/contents>
- Investigatory Powers Act 2016 - <https://www.legislation.gov.uk/ukpga/2016/25/contents/enacted>

The Council is committed to implementing the provisions of RIPA to ensure that any covert surveillance and/or access of communications data that is carried out during the course of investigations is undertaken properly and that the activity is necessary and proportionate to the alleged offence(s). Following the implementation of the Protection of Freedoms Act 2012 investigatory powers can only be used in relation to activities that would receive a minimum sentence of six months imprisonment or are in relation to the underage selling of alcohol or tobacco. If such action is contemplated initial consultation with the Council's Co-ordinating Officer should be undertaken at the earliest opportunity.

The Council seeks to ensure that this Policy Statement remains consistent with the Council's objectives.

This Policy ensures:

- that proper procedures are in place in order to carry out covert surveillance or to obtain communications data;
- that an individual's right to privacy is not breached without justification;
- that proper authorisation is obtained for covert surveillance or access to communications data;
- that proper procedures are followed; and
- that covert surveillance is considered as a last resort, having exhausted all other options.

1. **BACKGROUND**

Scope and Control

- 1.1 RIPA is the law which governs the use of a number of covert techniques for investigating crime and terrorism. Using covert techniques allows public authorities, which range from the police and security agencies to local authorities and organisations, such as the Office of Fair Trading, to investigate suspected offences without alerting an individual that they are part of that investigation.
- 1.2 Local authorities can use three techniques. They can obtain **Communications Data**, use **Directed Surveillance** and use **Covert Human Intelligence Sources (CHIS)**.
- 1.3 RIPA requires that an authorisation is needed for the use of these investigatory techniques and that they can only be used where it is considered proportionate and necessary to what is sought to be achieved.
- 1.4 Local authorities can only use these investigatory techniques if they are necessary to prevent or detect crime or prevent disorder.
- 1.5 These guidance notes provide a summary of the main points from the Home Office Covert Surveillance Code of Practice that are relevant to Swale Borough Council. They apply to authorisations for covert surveillance and access to communications data made by the Council.
- 1.6 To improve awareness, this guidance also briefly refers to activities that the Council has determined **should not** be undertaken.
- 1.7 Before undertaking any covert surveillance, these guidance notes should be read and if it is considered proportionate and necessary, further advice should be sought from the RIPA Co-ordinating officer. Members of the public who enquire about covert surveillance procedures should be referred to the Home Office Covert Surveillance Code of Practice. Officers employed by the Council and who are involved in covert surveillance should be made aware of these guidance notes and of the Code of Practice.
- 1.8 The use of the RIPA by the Council will be overseen by the Senior Responsible Officer supported by the Co-ordinating Officer. These positions are currently held by:
 - Senior Responsible Officer – ~~Larissa Reed (Chief Executive)~~Director of Regeneration and Neighbourhoods
 - Co-ordinating Officer – Gary Rowland (Senior Legal Advisor)

Senior Responsible Officer

The Senior Responsible Officer will have overall responsibility for the integrity of the RIPA process within the Council. In addition they will:

1. be responsible for the Council's compliance with RIPA and its regulatory framework;
2. engage with the Commissioners and Inspectors when they conduct inspections;

3. oversee the implementation of any recommendations made by the Investigatory Powers Commissioner's Office (IPCO);
4. carry out periodic oversight of the authorisations; and
5. report annually to Members on the usage of RIPA within the Council.

Co-ordinating Officer

The Co-ordinating Officer will be responsible for overseeing the day to day RIPA process, in particular they will:

1. keep the Central Record and collate the documentation received;
2. exercise the day to day oversight over the RIPA process by ensuring the quality of the documents submitted;
3. to monitor the Council's use of its appointed S.P.O.C agent, the National Anti Fraud Network ('NAFN');
4. monitoring the timeliness of the officers in making returns, carrying out reviews and effecting renewals and cancellations;
5. keep a record of the RIPA training programme as part of the Central Record; and
6. raise general RIPA awareness within the Council whilst ensuring that detailed awareness and training is provided to applicants and Authorising Officers in accordance with the IPCO recommended timeframes.

NB: applicants and Authorising Officers are required to undertake regular training at least once in every three year period.

Definitions

- 1.9 **Covert surveillance** is any surveillance carried out in a manner calculated to ensure that the persons subject to the surveillance are unaware that it is or may be taking place.
- 1.10 General observation forms part of the duties of the Council's enforcement officers i.e. **overt surveillance**, and is not usually regulated by RIPA (for example observations during routine planning enforcement matters where the property owner has been 'put on notice' that inspections may be carried out). Such observation may involve the use of equipment to merely reinforce normal sensory perception, such as binoculars, or the use of cameras, where this does not involve systematic surveillance of an individual.
- 1.11 The use of noise monitoring equipment to measure noise audible in a complainant's premises does not amount to covert surveillance because the noise has been inflicted by the perpetrator who it is likely has forfeited any claim of privacy. The use will only become covert when sensitive equipment is used to discern speech or other noisy activity that is not discernible to the unaided ear.
- 1.12 Although the provisions of RIPA do not normally cover the use of overt CCTV surveillance systems, since members of the public are aware that such systems are in use, there may be occasions when the Council's overt CCTV system is used for the purpose of a specific investigation or operation. Such cases should be discussed with the Authorising Officer who will decide whether it is directed surveillance and whether authorisation is required.
- 1.13 The primary purpose of surveillance is to secure evidence to bring offenders before the courts. The proper authorisation of surveillance should ensure the admissibility of such evidence in criminal proceedings.

- 1.14 **Directed surveillance** is the type of covert surveillance that the Council's employees will be permitted to undertake on an exceptional basis and only within the Council's responsibilities for the prevention and detection of crime, or for the prevention of disorder. Authorisation for directed surveillance **must** first be obtained.
- 1.15 Directed surveillance is defined as surveillance which is covert, but not intrusive, and undertaken:
- a) for the purpose of the prevention or detection of crime or to prevent disorder;
 - b) for the purpose of a specific investigation or specific operation;
 - c) in a manner that is likely to result in the obtaining of **private information** about a person (whether or not specifically identified for the purpose of the investigation or operation). Private information is defined at paragraph 1.19 below; and
 - d) otherwise than by way of an immediate response to events or circumstances the nature of which is such that it would not be reasonably practicable for an authorisation under Part II of the 2000 Act to be sought for the carrying out of the surveillance. For example, you may be in a Post Office obtaining information in relation to a particular customer when you observe a different person committing a benefit fraud. Officers acting in their line of duty are allowed to follow that person, if necessary, to establish their identification and any other information that may help with the subsequent investigation but you should not do so if you believe there is any possibility of a risk to your own safety.
- 1.16 A similar situation may occur whilst visiting an employer under section 110 powers, Social Security Administration Act 1992 (which requires separate authorisation). For example, if during a visit to an employer you recognise an individual benefit claimant, authorisation for watching the person working would not be required. This is because you have come across the information incidentally and in the course of your normal duties. However, if you visited an employer with the precise intention of observing an identified individual at work (whilst claiming benefit), written authorisation would be required before the visit.
- 1.17 Directed surveillance includes covert surveillance within office and business premises.
- 1.18 **Private information** includes:
- a) any information relating to a person's private or family life, or
 - b) information relating to aspects of a person's professional and business life.
- The concept of private information should be broadly interpreted to include an individual's private or personal relationship with others. Family life should be treated to extend beyond the formal relationships created by marriage.
- 1.19 **Intrusive surveillance** is defined as covert surveillance that:
- a) is carried out in relation to anything taking place within any residential premises or any private vehicle; and
 - b) involves the presence of an individual on the premises or in the vehicle or is carried out by means of a surveillance device or involves premises where legal consultations take place.

Under no circumstances should this type of surveillance be undertaken. An alternative means of obtaining the information should be sought.

- 1.20 **Interception of post, e-mail and recording of telephone conversations.** The interception of communications sent by post or by means of public telecommunications systems or private telecommunications systems attached to the public network are outside of the remit of Council officers.
- 1.21 **Covert Human Intelligence Source (CHIS)** is the term used for a person who is tasked by the Council to establish or maintain a relationship with a person for the purpose of covertly obtaining or disclosing information i.e. it is someone working “under cover” who has been asked to obtain information, to provide access to information or to otherwise act, incidentally for the benefit of the Council.
- 1.22 A relationship is established or maintained for a covert purpose if and only if it is conducted in a manner that is calculated to ensure that one of the parties to the relationship is unaware of the purpose.
- 1.23 A person is considered to be a CHIS if:
- (a) they establish or maintain a personal or other relationship with a person for the covert purpose of facilitating the doing of anything falling within paragraphs (b) or (c) below;
 - (b) they covertly use such a relationship to obtain information or provide access to any information to another person; or
 - (c) they covertly disclose information obtained by the use of such a relationship, or as a consequence of the existence of such a relationship.
- 1.24 **The Council has taken a policy decision that it will be the general practice not to undertake this type of surveillance activity.** An alternative means of obtaining the information should be followed. However, it is necessary that the Council be equipped to deal with CHIS should the situation arise.
- 1.25 If it is necessary to request an authorisation under CHIS, advice should first be sought from the RIPA Senior Responsible Officer.
- 1.26 As with directed surveillance the Council may only make an authorisation permitting the use of CHIS on the ground that it is necessary for the purpose of the prevention or detection of crime or the prevention of disorder.
- 1.27 It should be noted that where members of the public volunteer information to council officers, either as a complaint or as part of their civic duties i.e. use contact numbers set up for the reporting of suspected benefit fraud or for whistle-blowing etc. they would not generally be regarded as a CHIS. In addition, if someone is keeping a diary record of nuisance, this will not amount by itself to use of a CHIS. With the exception of a diary record of nuisance, a Council officer **must never** ask a member of the public to routinely record information relating to specified individuals on the Council’s behalf.
- 1.28 In order for the Council to carry out surveillance using CHIS (should the need arise) it is necessary to have appropriately trained officers designated as Controllers and Handlers. These posts will carry out the following functions:
- Controller – will at all times have general oversight of the use made of the source.

- Handler – will have day to day responsibility for dealing with the source on behalf of the authority, and for the source's security and welfare.

In all cases the Controller will be the RIPA Senior Responsible Officer.

Handlers will include investigators and enforcement officers that have received the relevant CHIS training and have been authorised by the RIPA Senior Officer to undertake this role. A register of those authorised as handlers will be kept by the RIPA Co-ordinating Officer.

In addition to the above the RIPA Co-ordinating Officer will have responsibility for maintaining a record of the use made of the source.

1.29 Accessing Communications Data

Local Authorities can obtain communications data for investigating crime under the Investigatory Powers Act 2016. Communications data includes land line and mobile telephone subscriber and billing data for telephone, web and postal customers.

- 1.30 Communications data can be obtained where it is necessary and proportionate to do so. Applications are primarily used to identify or locate suspects. Examples include applications to ascertain subscriber identity and address details of illegal fly tipping suspects from mobile phone number evidence.
- 1.31 The Council has appointed NAFN to provide a RIPA Single Point of Contact (SPoC) service to obtain communications data. NAFN is authorised to carry out requests to telecommunications service providers for category B and C data (see 1.32) for criminal investigations. This includes subscriber and billing information on telephone, web and postal services.
- 1.32 It should be noted that in order for Local Authorities to seek authority to acquire category B data, it must meet the new serious crime threshold. A serious crime is one which carries a prison sentence for a minimum of 12 months and meets the definition set out in section 81(3)(b) of the Act, i.e. conduct that involves the use of violence, results in substantial financial gain or is conduct by a large number of persons in pursuit of a common purpose. Category C data can still be acquired for any crime where necessary and proportionate to do so.

Category Table

A Data – Not accessible to Local Authorities	B Data – Available if serious crime threshold met	C Data – Available
Cell site IEMI Incoming caller data	Itemised Billing Call Diversion Data Downloading Outgoing call data	Subscriber detail including: Name and Address Method of Payments Customer info.

NB: Local Authorities are not able to obtain Category A data.

Social Networking Sites

- 1.33 **Social Networking Sites (SNS)** which include but are not limited to Facebook, Instagram, Twitter and TikTok can provide information that will aid an investigation. When using these sites to carry out surveillance it is essential to know how they work and officers should not assume that one service provider works in the same way as another.
- 1.34 In all cases it would be unwise to assume that the content came from an open source or was publically available, even where security settings are low, as the author would have some reasonable expectation of privacy where access controls are applied.
- 1.35 When conducting any surveillance of social media sites use of an officers personal account is prohibited and advice should be sought from the Communications Team with regards to setting up a Council account. It may pose a risk to an officers' personal safety when viewing social media profiles from a personal account, due to the potential for a 'digital footprint' to be left and therefore potentially identifying the officer to the account holder.
- 1.36 Where a site is being covertly accessed for monitoring purposes it may be necessary for an authorisation for directed surveillance to be obtained. As part of an investigation it is possible to take an initial look at an individuals social media activity, however, should there be a need to return to the site this may constitute surveillance. In such circumstances advice should be obtained from the RIPA Co-ordinating Officer before further surveillance is carried out.
- 1.37 When accessing an individuals' social media site, an officer of the Council must never establish or maintain a relationship with that individual without consulting with the SRO, as an authorisation for a CHIS may need to be obtained. See 1.23 above for full details of what constitutes a CHIS.
- 1.38 The Central Record will contain a register of any Council profiles utilised and a record of their use, where the Council decides to utilise Social Media for the purpose of investigation. The RIPA Co-ordinating officer must be involved prior to any social media being utilised for surveillance, to ensure appropriate records are being kept and stored.
- 1.39 A brief summary of the relevant legislation governing covert surveillance has been included at Appendix A.

2. GENERAL RULES ON AUTHORISATIONS

- 2.1 Where an authorisation or renewal is sought for the use of Directed Surveillance, acquisition of Communications Data or the use of CHIS it will be necessary to obtain Judicial Approval, i.e approval from the Magistrates Court. It will still be necessary to go through the internal authorisation stage, detailed below, prior to an application for Judicial Approval. The procedure for obtaining Judicial Approval is detailed at paragraphs 4.12 to 4.14 below.

NB: A flowchart produced by the Home Office showing the authorisation procedure is shown at Appendix B.

2.2 Directed Surveillance and CHIS

- 2.2.1 You must seek an authorisation where the surveillance is likely to interfere with a person's rights to privacy (*Article 8 of the European Convention on Human Rights*) by obtaining private information about that person, whether or not that person is the subject of the investigation or operation. Obtaining an authorisation will ensure that the action is carried out in accordance with law.
- 2.2.2 In the event that the Council is required to conduct joint directed surveillance working with another agency, the tasking agency should obtain the authorisation. For example, in the event that the police require covert surveillance by the Councils' CCTV system the police would normally seek the authorisation. A copy of the Authorisation, Renewal and Cancellation forms should be sought from the tasking agency to provide a record and justification for the Councils involvement. This should be presented to the RIPA Co-ordinating officer for recording.

2.3 Accessing Communications Data

- 2.3.1 Only authorised officers are able to use the NAFN Single Point of Contact service to access communications data. NAFN provides Council officers with access to a secure online system for processing RIPA telecommunications requests. Authorised applicants and designated persons can submit, approve and track applications through one central secure website. NAFN review all applications for legal compliance prior to approval from Swale's designated person. NAFN is subject to inspection by the officers of the Interception Commission to ensure compliance with RIPA.

2.4 RIPA Authorising Officers

The Authorising Officers for the Council are:

- ~~Chief Executive~~Director of Regeneration and Neighbourhoods / RIPA Senior Responsible Officer (SRO)
- ~~Director of Regeneration / Deputy SRO~~
- Director of Resources
- Head of Environment and Leisure
- Head of Housing and Community Services

No person designated as an Authorising Officer may act as an Authorising Officer unless they have undertaken appropriate training.

In addition to the above the following officers will be responsible for the authorisation of NAFN RIPA telecommunications requests:

- ~~Chief Executive~~Director of Regeneration and Neighbourhoods / RIPA Senior Responsible Officer (SRO)

2.5 Necessity and Proportionality

- 2.5.1 Obtaining an authorisation for surveillance will only ensure that there is a justifiable interference with an individual's Article 8 rights if it is **necessary and proportionate** for these activities to take place. RIPA first requires that the person granting an authorisation to believe that the authorisation is necessary for the purpose of

preventing and detecting crime or of preventing disorder; therefore there is a requirement that applicants and Authorising Officers consider why the use of covert surveillance is necessary in the specific investigation and what it will achieve.

2.5.2 If the activities are necessary, the person granting the authorisation must believe that they are proportionate to what is sought to be achieved by carrying them out. This involves balancing the intrusiveness of the activity on the target and others who might be affected by it against the need for the activity in the operational terms. Both the officer making the application and the Authorising Officer should consider the following test when deciding that the proposed covert surveillance is proportionate:

- a) Is the proposed covert surveillance proportionate to the mischief under investigation;
- b) Is the proposed covert surveillance proportionate to the degree of anticipated intrusion on the target and others; and
- c) Is the proposed covert surveillance the only option and have other overt means been considered and discounted.

2.5.3 The activity will not be proportionate if it is excessive in the circumstances of the case or if the information which is sought could reasonably be obtained by other less intrusive means. For example it may be acceptable in a benefit “living together” case for surveillance over seven days but not extended over three months. All such activity should be carefully managed to meet the objective in question and must not be arbitrary or unfair.

2.6 Collateral Intrusion

2.6.1 Before authorising surveillance the Authorising Officer should take into account the risk of intrusion into the privacy of persons other than those who are directly the subjects of the investigation or operation (collateral intrusion). Measures should be taken, wherever practicable, to avoid or minimise unnecessary intrusion into the lives of those not directly connected with the investigation or operation.

2.6.2 An application for an authorisation should include an assessment of the risk of any collateral intrusion. The Authorising Officer should take this into account, when considering the proportionality of the surveillance.

2.6.3 Those carrying out the covert surveillance should inform the Authorising Officer if the operation or investigation unexpectedly interferes with the privacy of individuals who are not covered by the authorisation. When the original authorisation may not be sufficient, consideration should be given to whether the authorisation needs to be amended and re-authorised or a new authorisation is required.

2.6.4 Any person granting or applying for an authorisation will also need to be aware of particular sensitivities in the local community where the surveillance is taking place and of similar activities being undertaken by other public authorities which could impact on the deployment of surveillance.

2.7 Central Record of Authorisations

2.7.1 A central retrievable record of all authorisations is required to be kept by the Council and regularly updated. Whenever an authorisation is granted, renewed or cancelled the original signed document must be passed to the Co-ordinating Officer who

maintain's the Central Record of Authorisations. On receipt of the documentation the required information will be recorded in the central register.

2.7.2 The record is required to be made available to the relevant Commissioner or an Inspector from the Investigatory Powers Commissioner's Office, upon request.

2.7.3 These records should be retained for a period of five years from the ending of the authorisation and should contain the following information:

- the unique reference number (URN) – this will be provided by the Co-ordinating Officer when requested by the officer applying for the authorisation;
- the type of authorisation; (SBC officers can only conduct directed surveillance)
- the date the authorisation was given;
- the name of the Authorising Officer;
- the title of the investigation or operation, including a brief description and names of subjects, if known;
- the date for review;
- the date review was undertaken;
- if the authorisation is renewed, when it was renewed and who authorised the renewal, including the name of the Authorising Officer;
- whether the investigation is likely to result in obtaining confidential information; and
- the date the authorisation was cancelled.

2.7.4 In all cases, the officer responsible for the investigation (Investigation Manager) must maintain the following documentation which need not form part of the central retrievable record:

- copy of the application and a copy of the authorisation together with any supplementary documentation and notification of the approval given by the Authorising Officer;
- copy of any renewal of any authorisation together with supporting documents
- any authorisation which was granted or renewed orally (an urgent case) and the reason why the case was considered urgent
- record of the period over which the surveillance has taken place;
- any risk assessment raised in relation to a CHIS;
- the circumstances in which tasks were given to the CHIS;
- the value of the CHIS to the investigation;
- the frequency of reviews prescribed by the Authorising Officer, recommended monthly;
- record of the result of each review of the authorisation;
- copy of any renewal of an authorisation, together with the supporting documentation submitted when the renewal was requested; and
- date and time when any instruction were given by the Authorising Officer since using CHIS.

2.8 Retention and Destruction

2.8.1 Where the product of surveillance could be relevant to pending or future criminal or civil proceedings, it should be retained in accordance with established disclosure requirements for a suitable further period, commensurate to any subsequent review.

2.8.2 There is nothing which prevents material obtained from properly authorised surveillance from being used in other investigations. Authorising Officers must ensure compliance with the appropriate data protection requirements and that arrangements

for the handling, storage and destruction of material obtained through the use of covert surveillance are followed.

- 2.8.3 Investigating officers are expected to keep accurate and full records of investigations. All notebooks (including QB50 for relevant Officers), surveillance logs and other ancillary documentation that relate to surveillance must be maintained for five years and available for management or regulatory inspection on demand.

3. SPECIAL RULES ON AUTHORISATIONS (Directed Surveillance and CHIS)

- 3.1 Care should be taken in cases where the subject of the investigation or operation might reasonably expect a high degree of privacy eg, where confidential information is involved. Confidential information consists of matters subject to legal privilege, confidential personal information or confidential journalistic material. For example, extra care should be given where, through the use of surveillance, it would be possible to acquire knowledge of discussions between a minister of religion and an individual relating to the latter's spiritual welfare, or where matters of medical or journalistic confidentiality or legal privilege may be involved.
- 3.2 In cases where through the use of surveillance it is likely that knowledge of confidential information will be acquired, the use of surveillance is subject to a higher level of authorisation, and must be authorised by the ~~Chief Executive (who is designated the RIPA Senior Responsible Officer)~~ ~~or in their absence the deputy SRO.~~
- 3.3 Where a juvenile or vulnerable person is to be used as a CHIS the Investigating Officer must, when seeking an authorisation:
- (a) make a risk assessment to demonstrate that the physical and psychological risks have been identified, evaluated and explained to the CHIS, and
 - (b) that an appropriate adult will be present at meetings of any CHIS under the age of 18.
- 3.4 Where the authorisation is for the employment of a juvenile or vulnerable CHIS the authorisation **must** be obtained by the Chief Executive ~~or in their absence the RIPA Senior Responsible Officer~~ ~~or in their absence, the deputy SRO.~~

4. AUTHORISATION PROCEDURE FOR COVERT SURVEILLANCE (Directed Surveillance and CHIS)

The appropriate RIPA forms are available from the Intranet, under Service Units; Legal; Shared Documents; Guidance, RIPA; Covert Surveillance Forms and Code of Practice.

Application Forms:

- Application for the use of Directed Surveillance form
 - Application for the use of CHIS form
 - Judicial Application / Order form
- 4.1 Before covert surveillance can be conducted, an application for the use of directed surveillance form and/or an application for the use of CHIS form must be completed and authorised in writing by the Authorising Officer.

4.2 Local Authorities cannot rely on the provision for urgent authorisation being given orally by the Authorising Officer as there is the requirement of obtaining judicial approval. There are however guidelines for obtaining urgent judicial approval and these are detailed below at paragraph 4.15. It should be remembered that no RIPA authority is required in situations where surveillance is an immediate response to events i.e. where criminal activity is observed during routine duties and officers conceal themselves to observe what is happening.

4.3 The application should include:

- the reason why the authorisation is necessary i.e. for the purpose of preventing and detecting crime or of preventing disorder (*this is the only permitted ground open to Local Authorities*)
- an adequate explanation of the reason why the surveillance is considered proportionate to what it seeks to achieve;
- the nature of the surveillance including what surveillance equipment is to be used (the operation must be spelt out in sufficient detail on the application form for the Authorising Officer to have a clear idea of exactly what they are being asked to authorise);
- a map showing where the surveillance will take place;
- details of other methods considered and why they were deemed not to be appropriate;
- the identities, where known, of those to be the subject of the surveillance;
- an explanation of the information desired from the surveillance;
- the details of any potential collateral intrusion and why the intrusion is justified;
- the details of any confidential information that is likely to be obtained as a consequence of the surveillance;
- the level of authority required (or recommended where that is different) for the surveillance; and
- a subsequent record of whether authority was given or refused, by whom and the time and date.

Good Practice Tips:

- ensure all questions are answered properly and appropriate boxes ticked;
- prior to submitting the application review the case file and discuss the case with the Authorising Officer to tease out additional information required and to fill any gaps, provide adequate information on the application form for it to stand alone;
- Information must be clear and unambiguous;
- set out in full and explain any acronyms; and
- explain operational processes which may otherwise require service specific knowledge.

4.4 To enable application forms for directed surveillance to be completed with sufficient detail drive bys are permitted to identify whether a location is suitable for surveillance. However, the practice should not be abused and repeated and/or

systematic use of drive bys may require application for surveillance forms to be completed and authorisation granted by an Authorising Officer. If surveillance is to commence immediately authorisation **must** be sought first.

Authorisation:

- 4.5 Responsibility for authorising the carrying out of covert surveillance rests with the Authorising Officer and requires the personal authority of the Authorising Officer. **In no circumstances should an officer authorise until they have met the training standard stipulated by the Senior Responsible Officer.**
- 4.6 Authorising Officers must insist on the operation being described in sufficient detail *on the application form* for them to have a clear idea of exactly what they are being asked to authorise and so that they have a sufficient *aide-memoir* to be able to withstand cross-examination in Court, maybe after a lapse of some years. The application form must stand alone in supporting the authorisation. Only what is written on the form would be used in Court to justify authorisation of surveillance being granted, therefore Authorising Officers must clearly describe exactly what activities they are authorising.
- 4.7 An authorisation can only be granted by the authorising officer where they believe that the use of covert surveillance is **necessary** in the investigation for the purposes of preventing and detecting crime or of preventing disorder and that the surveillance is **proportionate** to what it seeks to achieve, i.e it satisfies the test set out at 2.5 above.
- 4.8 In completing their authorisation the Authorising Officer should include a statement detailing their reasons for considering that application is necessary and proportionate incorporating the 5 “W’s”; these being: “who”, “what”, “where”, “when”, “why” and “how”.
- 4.9 In addition, when an authorisation is sought for the use of CHIS, the Authorising Officer must be satisfied that:
 - (a) that there will at all times be a person holding an office, rank or position with the relevant investigating authority who will have day-to-day responsibility for dealing with the source on behalf of that authority, and for the source's security and welfare;
 - (b) that there will at all times be another person holding an office, rank or position with the relevant investigating authority who will have general oversight of the use made of the source;
 - (c) that there will at all times be a person holding an office, rank or position with the relevant investigating authority who will have responsibility for maintaining a record of the use made of the source;
 - (d) that the records relating to the source that are maintained by the relevant investigating authority will always contain particulars of all such matters (if any) as may be specified for the purposes of this paragraph in regulations made by the Secretary of State;
 - (e) that records maintained by the relevant investigating authority that disclose the identity of the source will not be available to persons except to the extent that there is a need for access to them to be made available to those persons; and
 - (f) that a risk assessment has been carried out to determine the risk to the source of any tasking and the likely consequences should the role of the

source become known. The ongoing security and welfare of the source, after the cancellation of the authorisation, should have also been considered at this stage.

For further information please refer to paragraphs 1.22 to 1.29 above.

- 4.10 Authorising Officers should, where possible, complete their authorisation by hand to avoid being challenged at a later date as to the authenticity of their authorisation.
- 4.11 Where a previously unidentified subject is identified or an additional subject is subsequently identified during the course of surveillance, the surveillance may continue in order to maintain contact. Thereafter, a revised authorisation will be required to cover the additional subject etc. New individuals **must not** be added to the original authorisation retrospectively.

Judicial Approval:

- 4.12 As soon as an authorisation has been granted through the internal procedure the following steps must be taken to obtain judicial approval:
 - 1. HMCTS administration at the magistrates' court should be contacted by calling 01622 671041 for a hearing to be arranged – such hearings will be held in private.
 - 2. A copy of the original RIPA authorisation and supporting documentation should be provided to the Magistrate and **should contain all information that is relied upon**. The authorisation can be considered by a single lay Magistrate (sometimes referred to as a Justice of the Peace) supported by a Legal Advisor to the Court or a District Judge.
 - 3. Two copies of the partially completed judicial approval/order form should be provided to the Magistrate – one for the Court to keep and one for the Council.
 - 4. Attend hearing.

Any officer that attends on behalf of the Council must be authorised to do so by the Head of Legal under section 223 of the Local Government Act 1972.

- 4.13 Consideration should be given as to who is the most appropriate person to attend the hearing to request judicial approval. As it is likely that the Magistrate will have questions for whoever attends it should be someone with a detailed knowledge of the case. It may be that the most appropriate person to attend is the Authorising Officer as only they can explain their reasoning on necessity, proportionality, collateral intrusion and risk. It is recognised that this is not always practicable, and in these cases it is likely that the investigating officer should attend and promptly report back any comments made by the Magistrate to the Authorising Officer.

*NB: All evidence of necessity and proportionality **must** be in the RIPA/CHIS application form as it is not sufficient to provide oral evidence at the hearing where this is not reflected or supported in the papers provided.*

- 4.14 Following consideration of the case the Magistrate will complete the order section of the judicial application / order form recording their decision to either approve or refuse the authorisation or to refuse and quash the original authorisation.
- 4.15 Whilst Home Office Guidance urges Local Authorities to make local arrangements to deal with out of hours access to a Magistrate for urgent cases our local HMCTS legal staff have advised that they do not envisage there to ever be a need for the authority

to require urgent access, therefore all applications should be made in Court hours. The Senior Responsible Officer will continue to review the situation and if it is proven that there is a need for local arrangements for urgent cases to be made we will contact the Court again.

NB: It should be remembered that in most emergency situations it is likely that the police would have the power to act, and in such cases they would be able to authorise the activity without prior judicial approval.

- 4.16 Authorising Officers should not be responsible for authorising investigations or operations in which they are directly involved, although it is recognised that this may sometimes be unavoidable, especially in the case of small organisations, or where it is necessary to act urgently

Directed surveillance conducted from premises
(ref: R v Kenneth Johnson)

- 4.17 In the event that covert surveillance is required to be conducted from premises the following guidelines must be followed:
- Prior to covert surveillance being conducted from premises the line manager (or above) responsible for the investigation must visit the premises to ascertain the attitude of the occupiers to the surveillance activities and to the possible disclosure of information which might enable them to be identified.
 - Immediately before trial the Head of Services (or above) must ascertain whether the occupiers of the premises are the same as when the surveillance took place and, whether they are or not, what their feelings are as to the disclosure of information which might cause them to be identified.

Reviews:

Forms:

- Review of the use of Directed Surveillance form
- Review of the use of CHIS form

- 4.18 Written authorisations granted under RIPA for a CHIS cease to have effect twelve months after the date of granting of the authorisation. All other written authorisations under RIPA cease to have effect three months after the authorisation was granted.
- 4.19 Reviews of authorisations should be undertaken by the officer responsible for conducting the investigation (Investigation Manager), and approved by the Authorising Officer, to assess the need for the surveillance to continue. Reviews should take place at least monthly and immediately after the date the surveillance is due to end. The Authorising Officer may review the authorisation on a more frequent basis where it is considered necessary and practicable for example where the surveillance provides access to confidential information or involves collateral intrusion. *There is no requirement for the JP to consider internal reviews.* A copy of the review form should be retained by the officer responsible for conducting the investigation (Investigation Manager) and the original should be passed to the RIPA Co-ordinating Officer.

Renewals:

Forms:

- Renewal of Directed Surveillance form

- Renewal of CHIS form

- 4.20 If at any time before an authorisation would cease to have effect, the Authorising Officer considers it necessary for the authorisation to continue for the purpose for which it was given, they may renew it in writing for a further period of **three months** for directed surveillance and **twelve months** for a CHIS.
- 4.21 A renewal takes effect at the time at which, or day on which the authorisation would have ceased to have effect but for the renewal. An application for renewal should not be made until shortly before the authorisation period is drawing to an end. Any person who would be entitled to grant a new authorisation can renew an authorisation.
- 4.22 Applications for renewal of an authorisation for covert surveillance should record:
- whether this is the first renewal or every occasion on which the authorisation has been renewed previously;
 - any significant changes to the information at paragraph 4.3;
 - the reasons why it is necessary to continue with the directed surveillance;
 - the content and value to the investigation or operation of the information so far obtained by the surveillance; and
 - the result of regular reviews of the investigation or operation.
- 4.23 Authorisations may be renewed more than once, provided they continue to meet the criteria for authorisations. A copy of the renewal forms should be retained by the officer responsible for conducting the investigation (Investigation Manager) and the original should be passed to the RIPA Co-ordinating Officer for the required information to be recorded in the Central Record of Authorisations (see paragraph 2.7).
- 4.24 **Following the internal authorisation for renewal process it will again be necessary to obtain judicial approval for the authorisation to be renewed and the same process detailed in 4.12 to 4.14 above should be followed.**

NB: Where renewals are timetabled to fall outside of court hours it is for the investigating officer on behalf of the Local Authority to ensure that the renewal is completed ahead of the deadline.

Cancellations:

Forms:

- Cancellation of Directed Surveillance form
- Cancellation of CHIS form

- 4.25 A written authorisation granted by an Authorising Officer will cease to have effect (unless renewed) at the end of a period of **three months in relation to Directed Surveillance** or **twelve months in relation to CHIS** beginning with the day on which it took effect, however the Authorising Officer who granted or last renewed the authorisation must promptly cancel the authorisation if he is satisfied that the covert surveillance no longer meets the criteria for authorisation, including, but not limited to, where during the investigation it becomes clear that the offence being investigated no longer meets the crime threshold.

- 4.26 As soon as the decision is taken that covert surveillance should be discontinued, the instruction must be given to those involved to stop all surveillance of the subject(s) and a record made of the date and time when the instruction was given. A cancellation of the use of directed surveillance form must be completed by the officer responsible for conducting the investigation (Investigation Manager) and signed by the Authorising Officer. *There is no requirement for the Magistrate to consider cancellations.*
- 4.27 Cancellation forms should be retained by the Investigating Manager and the original should be passed to the RIPA Co-ordinating Officer for the required information to be recorded in the Central Record of Authorisations (see paragraph 2.7).

To ensure prompt cancellation Investigation Managers should advise the Authorising Officer as soon as surveillance activity has ceased.

5. AUTHORISATION PROCEDURES FOR COMMUNICATIONS DATA

- 5.1 Only officers authorised by the Council's Designated Person can submit applications via the NAFN secure website facility. Authorised officers are assigned a website username and password to access the NAFN SPoC application system.
- 5.2 Applications should detail the necessity, purpose and proportionality of each request for information, in addition to consideration of collateral intrusion arising from the request for information. The level of detail should be as required for covert surveillance and CHIS applications – See 4.3.
- 5.3 Applications which do not provide adequate detail will be returned to applying officers for reworking prior to submission to the Council's Designated Person (DP) for consideration and approval. Applications will only be approved where the DP considers the application to be necessary and proportionate to the investigation.
- 5.4 As soon as an authorisation has been granted through the internal procedure it will be for the Council to obtain judicial approval following the procedure detailed above at paragraphs 4.12 to 4.14. The Magistrate will complete the order section of the judicial application / order form reflecting their decision after which the Council will then be required to upload a copy of this order to the NAFN SPoC system.

6. Authorisation Control Matrix/ Aide-memoire:

- 6.1 To assist officers responsible for conducting investigations (Investigation Managers) to maintain appropriate records and comply fully with the Regulations a suitable Authorisation Control Matrix has been included at Appendix C. Dates of Reviews and when Authorisations cease should also be diarised as a further aid-memoire so that Reviews, Renewals and Cancellations are properly completed in a timely manner.

7. Complaints Relating to the use of RIPA

- 7.1 The Investigatory Powers Tribunal is a court which investigates and determines complaints which allege that public authorities or law enforcement agencies have unlawfully used covert techniques and infringed an individual's right to privacy, as well as claims against the security and intelligence agencies for conduct which breaches a wider range of our human rights. Where a member of the public wishes to complain about the Council's use of, or conduct of these powers they should be directed towards the Tribunal's website at <http://www.ipt-uk.com/>.

8. Non-RIPA Surveillance

Where the crime threshold for surveillance cannot be met, surveillance can still be considered as a last resort if it is deemed to be both necessary and proportionate. In such cases the same internal procedure used for the authorisation, renewal, review and cancellation of a RIPA application set out on pages 15 to 19 are to be followed, however the relevant non-RIPA form is to be used with all documentation being held centrally by the RIPA Co-ordinating Officer. For non RIPA applications there is no requirement to obtain Judicial Approval however all internal procedures must be followed to record the non-RIPA activity.

Relevant Legislation and Guidance

The Data Protection Act 2018

The Act provides six principles to be observed to ensure that the requirements are complied with. They provide that personal data (which includes personal data obtained from **covert surveillance techniques**) must:

- 1 be used fairly, lawfully and transparently;
- 2 be used for specified, explicit purposes;
- 3 be used in a way that is adequate, relevant and limited to only what is necessary;
- 4 be accurate and, where necessary, kept up to date;
- 5 be kept for no longer than is necessary; and
- 6 be handled in a way that ensures appropriate security, including protection against unlawful or unauthorised processing, access, loss, destruction or damage.

The Human Rights Act 1998

Article 8 of the European Convention on Human Rights is relevant in the context of **covert surveillance** in that it states:

- everyone has the right to respect for his private and family life, home and correspondence;
- there is to be no interference with the exercise of these rights by the local authority, except where such interference is in accordance with the law and is necessary in a democratic society in the interest of national security, public safety or the economic well being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others

Article 6 of the Convention is also relevant in the context of **covert surveillance** in that everyone has the right to a fair trial, including internal procedures or hearings, and fairness extends to the way in which evidence is obtained.

The Regulation of Investigatory Powers Act 2000

- The Act strikes a balance between community responsibilities, including effective law enforcement and individual rights and freedoms. The principles of RIPA are as follows:
- Surveillance is an intrusion into the privacy of the citizen. It should not be undertaken unless it is necessary, proportionate to the alleged offence and properly authorised. Where there is an alternative legal means of obtaining information that is less intrusive on the rights of the citizen, the alternative course rather than surveillance should be taken.
- Surveillance will be conducted within the constraints of the Council. It will cease when evidence sought has been obtained or when it becomes clear that the evidence is not

going to be obtained by further surveillance. At that point authorisation must be cancelled.

- In every instance where surveillance is authorised the officer who conducts surveillance will consider and make plans to reduce the level of collateral intrusion into the privacy of third parties.
- All outstanding surveillance authorisations will be reviewed at regular intervals and cancelled where there is no further need for surveillance.
- All officers involved in applying for, authorising or undertaking surveillance will understand the legal requirements set out in RIPA and the Code of Practice. They will personally take responsibility of their involvement.
- All authorisations, notebooks, surveillance logs and other ancillary documentation that relates to surveillance will be maintained to the required standard for three years. All documentation will be volunteered for any management or regulatory inspection on demand.
- Any failure of any part of the process will be brought to the attention of the manager responsible for the investigation.
- Wilful disregard of any part of the Surveillance Code of Practice or of internal procedures will be dealt with in line with Council policy.

Protection of Freedoms Act 2012

The Act amended the Regulation of Investigatory Powers Act 2000 (RIPA) to make local authority authorisation subject to judicial approval. It also limited a Local Authority's use of RIPA so that authorisations could only be obtained for directed surveillance to prevent or detect criminal offences that are either punishable, whether on summary conviction or indictment, by a minimum term of at least six months imprisonment or are related to the underage sale of alcohol and tobacco.

Investigatory Powers Act 2016

The Act will provide a new framework to govern the use and oversight of investigatory powers by law enforcement and the security and intelligence agencies. The aim of the Act is to bring together all of the powers already available to law enforcement and the security and intelligence agencies to obtain communications and data about communications and will make these powers and the safeguards that apply to them clear and understandable. In addition it creates a powerful new Investigatory Powers Commissioner to oversee how these powers are used and ensures powers are fit for the digital age.

Criminal Procedures & Investigation Act 1996 (CPIA)

The Act sets out legal obligations concerning criminal investigations. The principles of the Act are as follows:-

- **Record** - Information must be recorded in a durable and retrievable form. It must be full & factual. File notes must be contemporaneous, dated & preferably timed. There should be no personal comments, biased opinions, and prejudiced observations.
- **Retain** - All material obtained in the course of an investigation must be retained in the investigation file. The origin, date & if appropriate the time it was obtained must be

recorded. The reasons for action must be recorded, including any request for authorised surveillance, and details of the risk assessment.

- **Reveal** - 3 clearly identifiable roles on all investigation files:-
 - Investigator
 - Officer in Charge of the Investigation
 - Disclosure Officer

Unused material is listed on two schedules: -

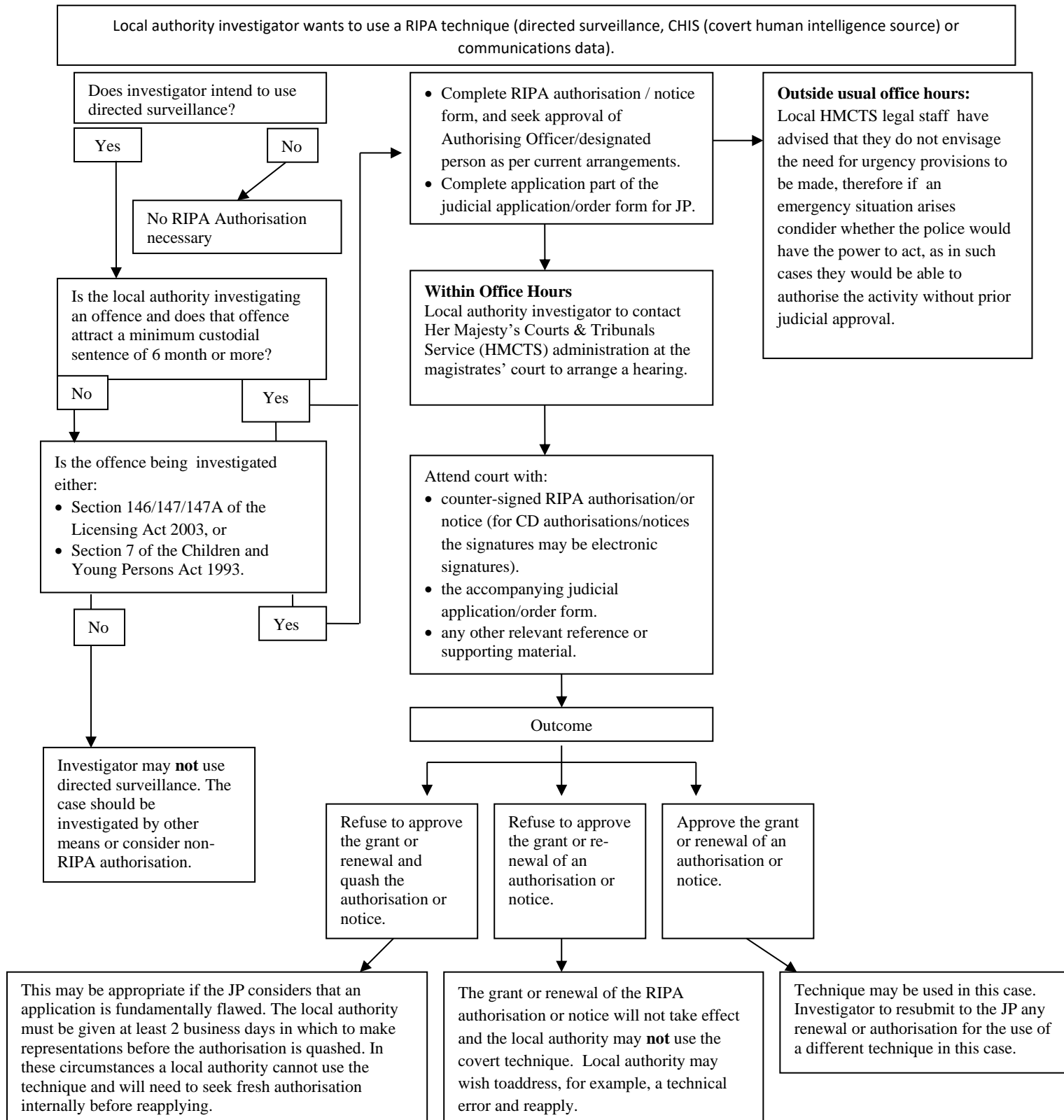
- Non-sensitive
- Sensitive.

Guidance Notes and Codes of Practice:

- Covert Surveillance and Property Interference Code of Practice – Home Office
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/384975/Covert_Surveillance_Property_Interference_web_2_.pdf
- Covert Human Intelligent Source Code of Practice – Home Office
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1123687/Revised_CHIS_Code_of_Practice_December_2022_FINAL.pdf
- Acquisition and Disclosure of Communications Data Code of Practice – Home Office
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/426248/Acquisition_and_Disclosure_of_Communications_Data_Code_of_Practice_March_2015.pdf
- Guidance to local authorities in England and Wales on the judicial approval process for RIPA and the crime threshold for directed surveillance – Home Office, October 2012
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/118173/local-authority-england-wales.pdf

Information can also be obtained from the website of the Investigatory Powers Commissioner's Office at <https://www.ipco.org.uk/> who has absorbed the powers of the Office of Surveillance Commissioners and the Interception of Communications Commissioner's Office.

**LOCAL AUTHORITY PROCEDURE:
APPLICATION TO A JUSTICE OF THE PEACE SEEKING AN ORDER TO APPROVE THE
GRANT OF A RIPA AUTHORISATION OR NOTICE**



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Policy & Resources Committee Meeting	
Meeting Date	10 September 2025
Report Title	Public Consultation Policy Statement, Member guidance, public guidance and officer toolkit
EMT Lead	Larissa Reed – Chief Executive
Head of Service	Philip Sutcliffe – Communications & Policy Manager
Lead Officer	Janet Dart – Policy & Engagement Officer
Classification	Open
Recommendations	<ol style="list-style-type: none"> 1. To consider and agree the public consultation policy statement. 2. To consider and agree that consultations should take place for a minimum period of 6 weeks but preferably 8 weeks. 3. To consider and agree the Swale Borough Council Councillors' guide to consultations. 4. To note the Swale Borough Council's officer consultation toolkit. 5. To consider and agree the public guidance on consultations.

1 Purpose of Report and Executive Summary

- 1.1 Public consultations are regularly carried out by Swale Borough Council (SBC) as part of developing Council services, activities, policies or strategies. The development of a public consultation policy statement provides councillors and officers guidance on how consultations should take place. The councillor guide gives members a better understanding of the process along with how results of a consultation can assist with formal decision-making. The toolkit provides officers with technical guidance that will achieve a legal and consistent approach to carrying out consultations. The public guidance explains to residents how our consultation process operates, explaining how they can get involved and what they can expect from SBC.

2 Background

- 2.1 The Council has a statutory duty to consult the public on a range of issues. However, having a statutory duty to consult is not the only reason for doing so.
- 2.2 The Local Government Association state that there are a range of other non-statutory reasons councils might want to run a consultation exercise which include:

- to improve planning, policy and decision making;
- to make better use of resources;
- to access new information, ideas and suggestions;
- to encourage greater participation in the activities of the council;
- to govern by consent;
- to measure residents' satisfaction with the council; and
- to shape council activities around residents' needs and aspirations.

2.3 To be both lawful and worthwhile, consultations have to follow a number of principles set down in case law (known as the Gunning Principles):

- Proposals are still at a formative stage
- There is sufficient information to give 'intelligent consideration';
- There is adequate time for consideration and response; and
- 'conscientious consideration' must be given to the consultation responses before a decision is made.

Failing to follow these principles can lead to challenge, including judicial review - which is costly, reputationally damaging and can significantly delay progress.

2.4 The Swale Borough Council public consultation policy statement recommends that public consultations should take place for a minimum period of 6 weeks but preferably 8 weeks. This will allow for consultations to take place between committee meeting dates, so members do not have to wait for 2 cycles to receive feedback from the consultation before decision making. Exceptions to this would be where there is specific legislation and/or statutory guidance stating a different consultation period or where there are exceptional circumstances where this may not be practically possible.

3 Proposals

- 3.1 To consider and agree the public consultation policy statement.
- 3.2 To consider and agree that consultations should take place for a minimum period of 6 weeks but preferably 8 weeks.
- 3.3 To consider and agree the Swale Borough Council councillors' guide to consultations.
- 3.4 To note the Swale Borough Council's officer consultation toolkit.
- 3.5 To consider and agree the public guidance on consultations.

4 Alternative Options Considered and Rejected

- 4.1 The alternative option is to not to agree procedures and timescales for public consultations. This is not recommended as it will result in inconsistent public consultations taking place across SBC. Should the Gunning Principles not being

adhered to, it could lead to challenge, including judicial review - which is costly, reputationally damaging and can significantly delay progress.

5 Consultation Undertaken or Proposed

- 5.1 On 8 July 2024, Members were consulted at the Informal Administration Meeting to seek an early steer on the development of the councillor guidance notes and officer toolkit. The Strategic Management Team and Swale Managers were consulted during the development of the consultation policy statement, councillor guidance notes and officer toolkit.

6 Implications

Issue	Implications
Corporate Plan	This piece of work aligns with the Community priority, in particular: <i>“To ensure active and effective engagement mechanisms are in place so that all residents and communities have the opportunity to engage with the Council.”</i>
Financial, Resource and Property	None identified at this stage.
Legal, Statutory and Procurement	Following the processes set out in the toolkit will ensure that consultations are carried out legally and in compliance with the Gunning Principles and the Equality Act 2010.
Crime and Disorder	None identified at this stage.
Environment and Climate/Ecological Emergency	None identified at this stage.
Health and Wellbeing	None identified at this stage.
Safeguarding of Children, Young People and Vulnerable Adults	None identified at this stage.
Risk Management and Health and Safety	None identified at this stage.
Equality and Diversity	The processes set out in the officer toolkit ensure that the council has due regard to the public sector equality duty (Equality Act 2010) in decision-making when carrying out public consultations.

Privacy and Data Protection	The toolkit provides officers with reference to data protection principles to ensure that any personal data collected during a public consultation are processed in accordance with the UK GDPR principles and the Data Protection Act 2018. When collecting information for a consultation, personal information should only be collected where necessary and only relevant information.
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7 Appendices

- 7.1 The following documents are to be published with this report and form part of the report:

Appendix I – Policy Statement for carrying out public consultations.

Appendix II – Draft Councillor's guide to consultations.

Appendix III – Draft Officer Consultation Toolkit – a guide for planning public consultations.

Appendix IV – Draft Consultation Guide for the public.

8 Background Papers

None.

Swale Borough Council

Policy Statement for carrying out public consultations

Introduction:

The purpose of the Consultation Policy Statement is to provide corporate guidance about how and when consultations are carried out as part of developing Council services, activities, policies or strategies.

Engagement is a priority in the Corporate Plan 2023-2027 [Corporate Plan 2023 to 2027](#) under Communities: *“To ensure active and effective engagement mechanisms are in place so that all residents and communities have the opportunity to engage with the Council.”*

Both engagement and formal consultation are important mechanisms used by the Council, however, there is a difference between the two. The definitions are:

Public consultation is a focused, formal process of seeking public opinion on specific proposals or decisions to directly inform those decisions. It's a time-limited activity with defined rules and legal requirements.

Public engagement is a broader, ongoing process of building relationships and sharing information to foster understanding and collaboration. It's not always linked to a specific decision but aims to create a continuous dialogue and improve overall relationships.

This policy statement focuses on formal consultation.

Reasons for carrying out Consultations:

The Council has a statutory duty to consult the public on a range of issues. However, having a statutory duty to consult is not the only reason for doing so. The Local Government Association state that there are a range of other non-statutory reasons councils might want to run a consultation exercise which include:

- to improve planning, policy and decision making
- to make better use of resources
- to access new information, ideas and suggestions
- to encourage greater participation in the activities of the council
- to govern by consent (a full and fair consultation, with careful consideration of all views, can strengthen the legitimacy of the prevailing view among those people not in favour of the final decision)
- to measure residents' satisfaction with the council
- to shape council activities around residents' needs and aspirations

The Gunning principles:

To be both lawful and worthwhile, consultations have to follow a number of principles set down in case law (known as the Gunning Principles):

1. **Proposals are still at a formative stage**

A final decision has not yet been made, or predetermined, by the decision makers.

2. **There is sufficient information to give 'intelligent consideration'**

The information provided must relate to the consultation and must be available, accessible, and easily interpretable for consultees to provide an informed response.

3. **There is adequate time for consideration and response**

There must be sufficient opportunity for consultees to participate in the consultation. There is no set timeframe for consultation, despite the widely accepted twelve-week consultation period, as the length of time given for consultee to respond can vary depending on the subject and extent of impact of the consultation.

4. **'conscientious consideration' must be given to the consultation responses before a decision is made**

Decision-makers should be able to provide evidence that they took consultation responses into account.

Failing to follow these principles can lead to challenge, including judicial review - which is costly, reputationally damaging and can significantly delay progress.

Timescales for formal public consultation:

Following the introduction of the Committee system in 2022, the Council reviewed the timescales for carrying out public consultations. It was felt that 8 to 12 weeks was no longer practical as it does not fit in with the service committee cycle.

Swale Borough Council, therefore, recommends that ***its public consultations should take place for a minimum period of 6 weeks but preferably 8 weeks. Exceptions to this would be where there is specific legislation stating a different consultation period or where there are exceptional circumstances where this may not be practically possible.***

Process for carrying out public consultations:

Council officers should refer to the Consultation Toolkit when carrying out public consultations to ensure they follow the process recommended by the Council.

There are guidance notes for councillors providing information on how and when consultations are carried out as part of developing council services, activities, policies or strategies.

September 2025



Swale Borough Council

Councillors' guide to consultations

Introduction:

This guidance is designed for Swale Borough Council (SBC) councillors to have an understanding of how and when consultations are carried out as part of developing Council services, activities, policies or strategies.

Reasons for carrying out Consultations

The Council has a statutory duty to consult the public on a range of issues. However, having a statutory duty to consult is not the only reason for doing so. The Local Government Association state that there are a range of other non-statutory reasons councils might want to run a consultation exercise which include:

- to improve planning, policy and decision making
- to make better use of resources
- to access new information, ideas and suggestions
- to encourage greater participation in the activities of the council
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The information provided must relate to the consultation and must be available, accessible, and easily interpretable for consultees to provide an informed response.

3. There is adequate time for consideration and response

There must be sufficient opportunity for consultees to participate in the consultation. There is no set timeframe for consultation, despite the widely accepted twelve-week consultation period, as the length of time given for consultee to respond can vary depending on the subject and extent of impact of the consultation.

4. 'conscientious consideration' must be given to the consultation responses before a decision is made

Decision-makers should be able to provide evidence that they took consultation responses into account.

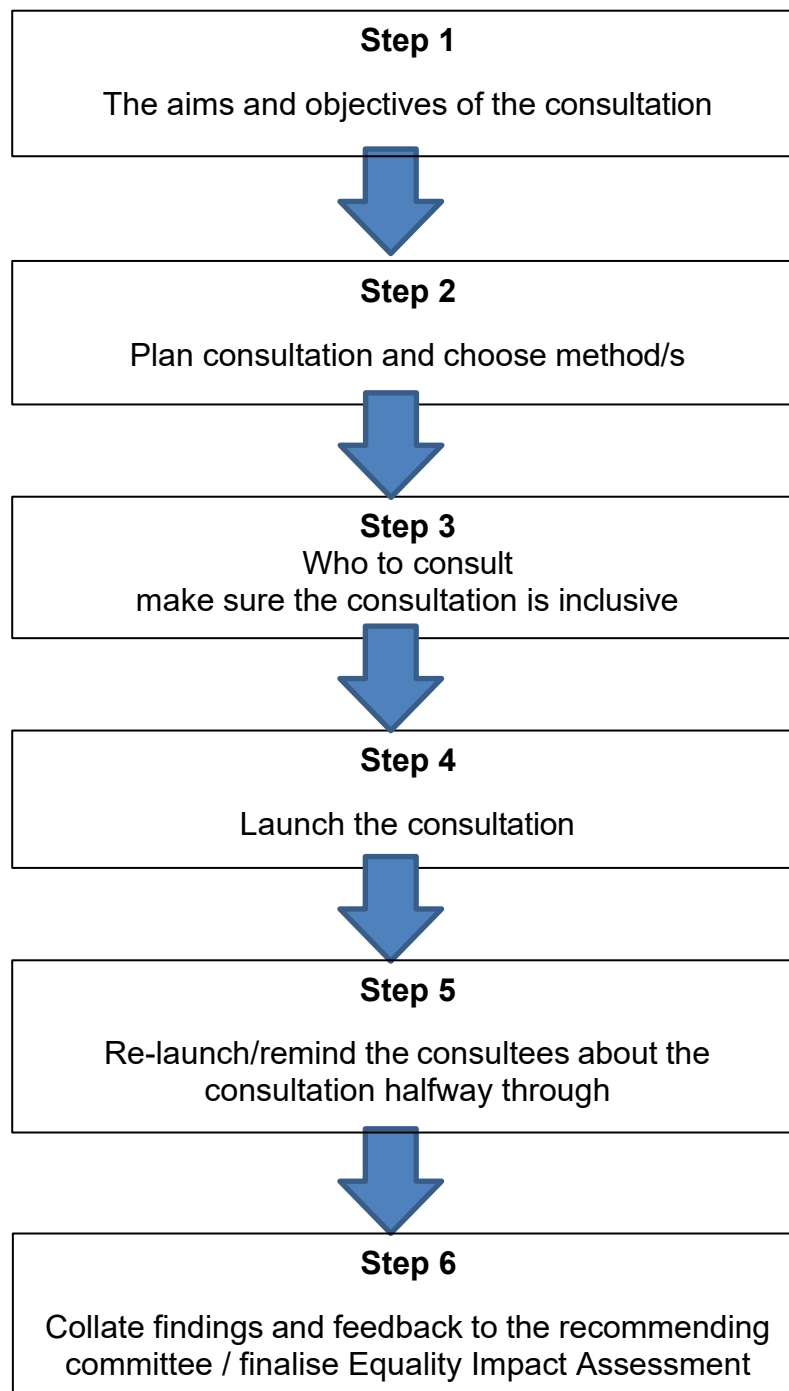
Failing to follow these principles can lead to challenge, including judicial review - which is costly, reputationally damaging and can significantly delay progress.

The SBC Public Consultation Policy Statement recommends that public consultations should take place for a minimum period of 6 weeks but preferably 8 weeks. Exceptions to this would be where there is specific legislation stating a different consultation period or where there are exceptional circumstances where this may not be practically possible.

For the annual budget consultation, SBC consult with the public on draft budget proposals at the earliest opportunity. Any changes to service delivery, as a result of budget proposals, are consulted on at a formative stage.

The consultation process

When carrying out a consultation, officers follow the following process:



Step 1 - The aims and objectives of your consultation

Before undertaking any consultation, officers/councillors need to establish why it is being undertaken and what information needs to be gathered. Also, thought should be given about what will be done with the outcomes and what decisions will be influenced. Consultation with the public raises expectations so the people participating need to understand how the results will be used.

Step 2 - Plan consultation and choose method/s

The next stage should be the writing of a plan to identify what methods will be used during the consultation. The following should be considered when planning a consultation:

- What the project proposals are, who may be affected, what questions are being asked and the timescale for responses;
- the timing of the consultation, avoiding the pre-election period, and taking into account the time of year for example public holidays and dates of area committees if they are to be used as one of the consultation methods;
- the UK GDPR and the Data Protection Act 2018 sets out how information must be processed if information collected for the consultation includes personal data;
- ensure the consultation is clear, concise and widely accessible using plain English; and
- the chosen method of consultation in comparison with the individuals being consulted with. This may include the provision of hard copies of the consultation documents for individuals who may not have internet access.

Step 3 - who to consult

the following categories should be considered when identifying which stakeholders should be consulted:

- Service users (*those who pay directly for a service or those who pay indirectly through Council Tax*);
- Specific non-users (*people who are unaware of the service or people who might need the service at a later date*);
- Other customers (*internal customers, eg staff, partner organisations or elected members*);
- Interested parties (*residents/local people, interested agencies – voluntary, private, public sector, Parish/Town Councils, MPs, local businesses, etc*); and
- Individuals with protected characteristics that must be consulted with under the Equality Act 2010.

Step 4 - launch consultation

Officers will make sure that the consultation webpage launch and any emails/letters are sent on the first day of the public consultation with the deadline clearly stated. This allows the longest time possible for responses and for officers to publicise the consultation. If the correct amount of time is not allowed, the final strategy or policy may be subject to a judicial review if an individual feels that they have been excluded from the process.

Step 5 - re-launch half-way through consultation

It is always useful to re-launch about half-way through the process so that partners and the community are encouraged to respond to the consultation as soon as possible. Statistically, it has been shown that most members of the public will complete a survey as soon as it arrives or not at all. Sending a gentle reminder ensures that at least some of those that put off responding to another time are prompted again.

Step 6 - collate findings and finalise Equality Impact Assessment (EqIA)

After the closing date of the consultation, the findings are collated decisions made whether the comments or points raised warrant changes to the strategy or policy. All decisions made should be backed up with sound evidence.

Officers will finalise the Equality Impact Assessment, it may at this point become apparent after the process that a significant group is seriously under-represented, in which case it may be worth re-launching the consultation with a more targeted approach towards individuals who possess these protected characteristics.

Conclusion of consultation process:

Councillors have a responsibility to take the results of a consultation into account when making a formal decision. It is not a referendum so councillors are not bound by the results but do need them to inform their decision.

Where a consultation has taken place, officers will include the full results in committee papers for councillors to consider.



Swale Borough Council Consultation Toolkit

A guide for officers planning public consultations
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Introduction

This toolkit is designed to provide guidance to Swale Borough Council (SBC) officers who are preparing to undertake a formal consultation as part of developing Council services, activities, policies or strategies. It is important to understand the difference between public consultation and public engagement:

- **Public consultation** is a focused, formal process of seeking public opinion on specific proposals or decisions to directly inform those decisions. It's a time-limited activity with defined rules and legal requirements.
- **Public engagement** is a broader, ongoing process of building relationships and sharing information to foster understanding and collaboration. It's not always linked to a specific decision but aims to create a continuous dialogue and improve overall relationships.

This toolkit deals with public consultation. If you wish to carry out some informal engagement with the public to seek some feedback on a piece of work, please contact the Communications & Policy Team for advice.

Reasons for carrying out Consultations

The Council has a statutory duty to consult the public on a range of issues. However, having a statutory duty to consult is not the only reason for doing so. The Local Government Association state that there are a range of other non-statutory reasons councils might want to run a consultation exercise which include:

- to improve planning, policy and decision making
- to make better use of resources
- to access new information, ideas and suggestions
- to encourage greater participation in the activities of the council
- to govern by consent (a full and fair consultation, with careful consideration of all views, can strengthen the legitimacy of the prevailing view among those people not in favour of the final decision)
- to measure residents' satisfaction with the council
- to shape council activities around residents' needs and aspirations

The Gunning principles

To be both lawful and worthwhile, consultations have to follow a number of principles set down in case law (known as the Gunning Principles):

1. Proposals are still at a formative stage

A final decision has not yet been made, or predetermined, by the decision makers.

2. There is sufficient information to give ‘intelligent consideration’

The information provided must relate to the consultation and must be available, accessible, and easily interpretable for consultees to provide an informed response.

3. There is adequate time for consideration and response

There must be sufficient opportunity for consultees to participate in the consultation. There is no set timeframe for consultation, despite the widely accepted twelve-week consultation period, as the length of time given for consultees to respond can vary depending on the subject and extent of impact of the consultation.

4. ‘conscientious consideration’ must be given to the consultation responses before a decision is made

Decision-makers should be able to provide evidence that they took consultation responses into account.

Failing to follow these principles can lead to challenge, including judicial review - which is costly, reputationally damaging and can significantly delay progress.

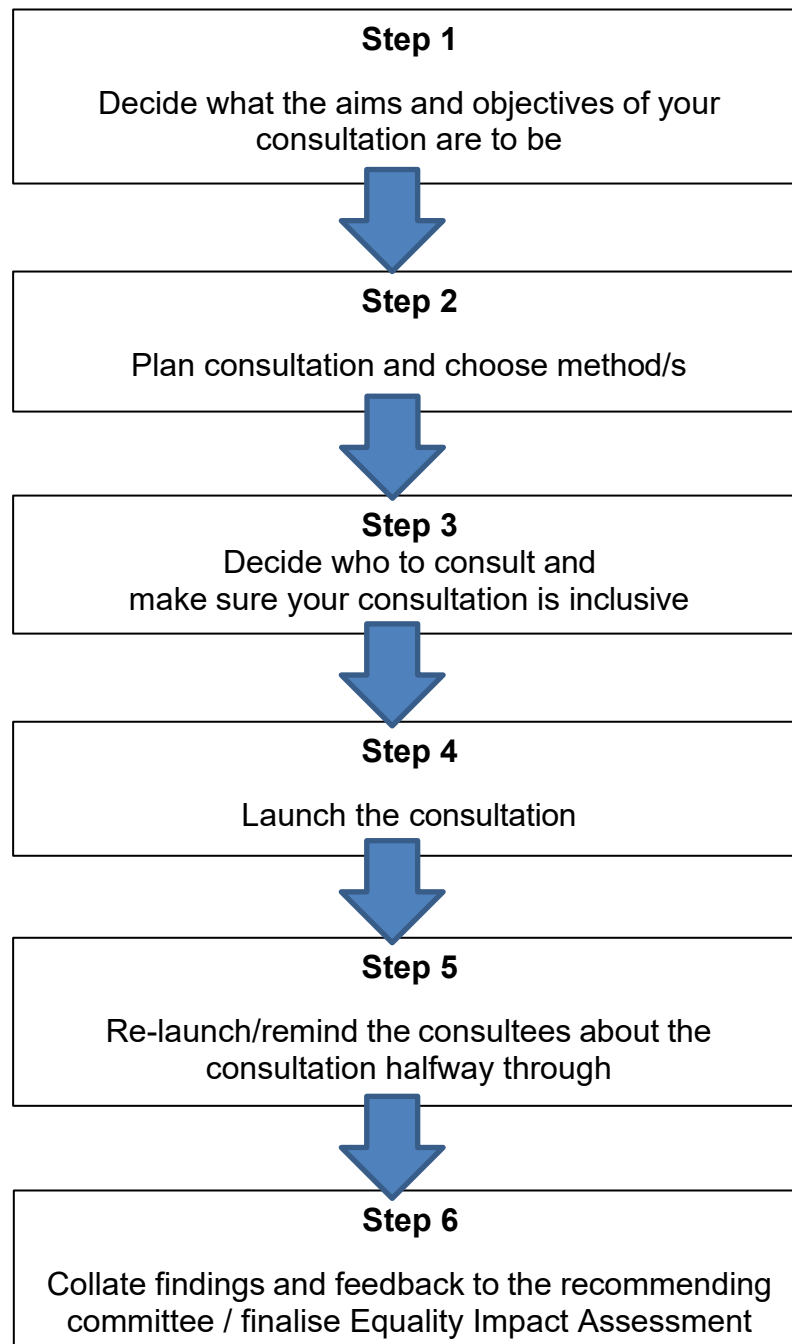
The SBC Public Consultation Policy Statement recommends that public consultations should take place for a minimum period of 6 weeks but preferably 8 weeks. Exceptions to this would be where there is specific legislation and/or statutory guidance stating a different consultation period or where there are exceptional circumstances where this may not be practically possible.

For the annual budget consultation, SBC consult with the public on draft budget proposals at the earliest opportunity. Any changes to service delivery, as a result of budget proposals, are consulted on at a formative stage.

The toolkit

This toolkit is designed as a step-by-step guide to the running of a consultation to give any officer an understanding of how they can meet the Policy Statement on Consultations.

The consultation process



Step 1 - the aims and objectives of your consultation

Before undertaking any consultation, you should decide why you are undertaking it and what it is you want to find out. Think about what you are going to do with the outcomes and what decisions will be influenced. Consultation with the public raises expectations so you need to be sure the people you engage with understand how you plan to use your results.

At an early stage you should ask yourself:

- What are the key aims?
- What information or change is wanted at the end and what do we not have now?
- What type of report do I need to produce at the end?
- What will the information be used for?

Consider your objectives for carrying out the consultation, for example:

- Compare and challenge the existing service – what needs to change?
- Look for unmet need
- Shape the way your service is delivered
- Prioritise future spending

A consultation can provide a wide range of benefits for your strategy or policy, for instance:

- It will provide an insight into what the public or potential users think about the draft strategy/policy.
- It allows the strategy/policy to be examined in public, providing officers with an important opportunity to gain an understanding of their work outside the workplace.
- Empowers residents to be engaged in the writing of a strategy or policy and seeks to demonstrate that the Council listens to the concerns of partners and the community.
- Raises the profile of the strategy or policy and by extension the wider service.

When considering the aims and objectives, it is useful to keep in mind the process for policy and strategy development as this helps to shape the consultation. Appendix I shows where the consultation process sits within the policy/strategy development process.

Step 2 - plan consultation and choose method/s

The next stage should be the writing of a plan to identify what methods will be used during the consultation. Appendix II provides a checklist to use when writing your plan. Please discuss your plan with the Communications & Policy Team at this stage to ensure they are aware of the timing and method/s you will be using and they can work with you to publicise the consultation. They will also check the documents you will be using meet accessibility requirements.

The following should be considered when planning your consultation:

- You must be clear about what your proposals are, who may be affected, what questions are being asked and the timescale for responses.
- Consider the timing of the consultation, avoiding pre-election period, and take into account the time of year, for example public holidays and dates of Area Committees, if they are to be used as one of the consultation methods.
- When collecting information for your consultation you need to consider if the information you are processing is personal data. Personal data is any information which allows a living individual to be identified. When processing personal data, the data protection principles should be referred to for good information handling. When collecting information for a consultation, personal information should only be collected where necessary and only relevant information.
- The UK GDPR and the Data Protection Act 2018 sets out how information must be processed. The GDPR principles state that when you collect personal data about people, you must process and store it fairly, lawfully, and transparently. When processing personal information, you need to provide a privacy statement advising data subjects what their information will be used for and the lawful basis you are processing this information under. Do not disclose personal information about people or share information that would lead them to being identified without their consent or a lawful basis to do so. Prior to sharing, collecting personal data or for further information please contact the Information Governance Team
dataprotectionofficer@swale.gov.uk.
- You must ensure that your consultation is clear, concise and widely accessible using plain English.

It is important to consider the chosen method of consultation in comparison with the individuals that you are consulting with. The table on the next page provides a summary of different techniques that could be used when planning the consultation.

Method	Advantages	Risks
Consultation Documents	<ul style="list-style-type: none"> • Individuals can respond directly to the draft document either online or via paper copies for people who do not have internet access. • Officers can set questions that they would like to be answered. • Allows readers to provide a considered response. • Allows group responses from organisations such as Parish Councils or community groups. • Groups can be targeted to receive postal surveys. 	<ul style="list-style-type: none"> • Difficult language in documents may exclude social groups from responding. • Likely to be a poor response rate. • Could be additional cost of publicising consultation. • Could be additional cost of producing paper copies of consultation documents. • Postal surveys can be expensive.
Public Meetings	<ul style="list-style-type: none"> • Area Committees can be used for this purpose. • Opportunity to secure the support of the community. • Opportunity to explain in person why the strategy or policy is needed. • Opportunity to answer questions and comments directly. 	<ul style="list-style-type: none"> • Low turnout could lead to low feedback. • Audience is likely to represent only a small social group. • Difficult to receive considered or in-depth responses. Cost implication.
Website	<ul style="list-style-type: none"> • Relatively cheap. • Enhances the website with the community. • Data can be easily assessed and monitored allowing consultation to reactively develop over the 6-8 weeks. 	<ul style="list-style-type: none"> • Not everyone in the borough can or wants to access a computer. • Can provide a low number of responses. • Can encourage one word responses which do not improve the document. • Can encourage lengthy responses which take a lot of work to process.
Focus Groups	<ul style="list-style-type: none"> • Can reach communities that are difficult to access. 	<ul style="list-style-type: none"> • Resource intensive as a lot of time can be spent for a relatively low level of return. • Lack of confidentiality.

	<ul style="list-style-type: none"> • Allows for ideas to develop through discussion. • Ability to build on consultation findings during the 6-8 week process. 	
Seminars/Workshops led by a facilitator	<ul style="list-style-type: none"> • Enables officers to ask questions directly. • Allows social groups to be introduced to the ideas behind the document. • Large number of the public can cumulatively take part. 	<ul style="list-style-type: none"> • Skillset for facilitation may need to be commissioned. • Resource intensive. • Potential to only receive responses from those who already engage with the Public Sector. • Possibility of officers influencing response.
Exhibitions and Roadshows	<ul style="list-style-type: none"> • Effectively publicises strategy or policy. • Immediate contact with the public. • Exhibitions can be left in a public place without officers. 	<ul style="list-style-type: none"> • Groups will be dependent on representation. • Feedback may be limited. • Cost implication.
Telephone Survey	<ul style="list-style-type: none"> • Can provide a large number of responses. • Potential to select individuals from different protected characteristics. • Allows flexible structure. • Could be undertaken through a contract. 	<ul style="list-style-type: none"> • Resource intensive – need to train callers to ask questions. • Interviewer cannot ask further questions to unusual responses.
Street Survey	<ul style="list-style-type: none"> • Large number of responses. • Possible random selection of the community. • Out of the council so captures community that do not engage. 	<ul style="list-style-type: none"> • Resource intensive – requirement to train street surveyors and can be costly to run for an extended period. • Personal Safety of fieldworkers. • Limited survey of one area-specific group such as shoppers or Library users.

Once the consultation has been approved, the consultation can begin.

Step 3 - who to consult

Consider the following categories when identifying which stakeholders should be consulted:

Service Users

- Those who pay directly for a service
- Those who pay indirectly through Council Tax

Specific Non-Users


- People who are unaware of the service
- People who might need the service at a later date

Other Customers

- Internal customers (eg staff)
- Partner organisations
- Elected members

Interested Parties

- Residents/local people
- Some departments have a consultation database
- Interested agencies – voluntary, private, public sector
- Parish/Town Councils, MPs, local businesses, etc

It would also be useful at this stage to consider the individuals with protected characteristics that must be consulted with under the Equality Act 2010, by comparing your finalised plan with the Equality Impact Assessment template  [Equality Impact Assessment template](#) The nine protected characteristics are:

- Age
- Disability
- Gender Reassignment
- Marriage and Civil Partnership*
- Pregnancy and Maternity
- Race
- Religion or Belief
- Sex
- Sexual Orientation

**For marriage and civil partnership, only the first aim of the duty applies in relation to employment.*

SBC also ask officers to consider other socially excluded groups, which could include people who are geographically isolated from services, with low literacy skills or living in poverty or low incomes, affected by rural deprivation or poor health. This may impact on aspirations, health or other areas of their life which are not protected by the Equality Act, but should be considered when delivering services.

If the policy or strategy will affect any of these groups, it would be useful to build in at this stage a targeted approach to get the social group's comments on your strategy

or policy. For further guidance on Equalities issues or how to contact these groups please contact the Communications & Policy Team or use *Equality Impact Assessments guidance notes*.

Step 4 - launch consultation

Make sure that the consultation webpage launch and any emails/letters are sent on the first day of the public consultation with the deadline clearly stated. This allows the longest time possible for responses and for officers to publicise the consultation. If you do not allow the correct amount of time, your final strategy or policy may be subject to a judicial review if an individual feels that they have been excluded from the process.

Step 5 - re-launch half-way through consultation

It is always useful to re-launch about half-way through the process so that partners and the community are encouraged to respond to the consultation as soon as possible. Statistically, it has been shown that most members of the public will complete a survey as soon as it arrives or not at all. Sending a gentle reminder will ensure that you catch at least some of those that put off responding to another time.

Step 6 - collate findings and finalise Equality Impact Assessment (EqIA)

After the closing date of your consultation, collate your findings and decide whether the comments or points raised warrant changes to your strategy or policy. Make sure that any decision you make can be backed up with sound evidence.





To help this process, it may be useful to complete an EqIA **before** the consultation process begins so as to ensure you address any excluded groups first. The first step of this process is to complete the [Equality Impact Assessment template](#). Once complete, submit the form to the Communications & Policy Team who will provide a 'critical friend' role.




It may however still become apparent after the process that a significant group is seriously under-represented, in which case it may be worth re-launching the consultation with a more targeted approach towards individuals who possess these protected characteristics.

During the reporting process there is also a need to report the findings of the consultation. You could use a 'You Said We Did template', such as the example in the table below, to present the Council's response clearly to residents. Where inappropriate comments have been submitted to the consultation, officers should use their discretion about including those comments in the report. If in doubt, consult your line manager. *(Note - the definition of inappropriate comments is rudeness, swearing, offensive language, or anything that could hurt or upset others. This includes racist, sexist, homophobic, or discriminatory remarks.*

You Said	We Did
<i>In this column include the questions or issues raised during the consultation</i>	<i>In this column provide a response to the issue raised. Such as, agreed or if the change has been rejected the reason why it could not be adopted.</i>

Policy or strategy development flowchart

<p>Initiation</p> 	<p>Decide the vision and scope of your proposed policy or strategy.</p> <p>Why are you writing a new strategy or policy – statutory legislation, change to a service, internal guidance etc.</p> <p>Make sure you are clear at this stage what is required and consult with your manager and owning/responsible service committee where necessary</p> <p>Ensure the policy/strategy follows the Council's vision for Swale and is in line with the Corporate Plan Council - Corporate Plan (swale.gov.uk).</p> <p>Consider co-design and co-production with the community.</p>
<p>Research and Analysis</p> 	<p>Plan and conduct research and analyse findings.</p> <p>Pre-consultation EqIA to be started, this will ensure all relevant groups are contacted as part of the process.</p>
<p>Development</p> 	<p>Following the research, you will have gained a greater understanding of the issues surrounding the subject and will be ready to write the main body of the document.</p>
<p>Consultation</p> 	<p>Where necessary seek approval from the responsible service committee to carry out a public consultation on the draft policy/strategy.</p> <p>Carry out the consultation.</p> <p>Collate your findings and decide whether the feedback warrant changes to your strategy or policy. Make sure that any decision you make can be backed up with sound evidence.</p>

<p>Impact Assessment</p> 	<p>Finalise Equality Impact Assessment using findings of the consultation.</p>
<p>Adoption</p> 	<p>All new policies/strategies should be considered by EMT (and DMT if appropriate) before they are presented to the owning/responsible committee for adoption.</p>
<p>Implementation</p> 	<p>Policy becomes part of 'day-job'</p> <p>Strategy or policy implemented over a number of months.</p>
<p>Monitoring</p>	<p>Strategy monitored through agreed performance indicators to meet outcomes.</p> <p>Document reaches end of life-cycle and strategy or policy begins again at Initiation.</p>

Consultation Plan check list

Name of Policy/Strategy	<i>This will be agreed by the recommending committee</i>
Service Area	<i>Your service area</i>
Lead Officer	<i>Who is the lead person writing the policy or implementing the service?</i>
Corporate Priority being addressed	<i>Consult the Corporate Plan Council - Corporate Plan (swale.gov.uk) and discuss with your line manager</i>
Recommending/adopting Committee	<i>Service Committee/Policy & Resources Committee/Council?</i>
Consider aims and objectives of the consultation	<i>See Step 1 of the Consultation Toolkit</i>
Date recommending Committee agreed scope of policy/strategy consultation	<i>This will have taken place during the initiation phase of the policy/strategy development</i>
Date early steer obtained from member working group or Committee Review & Forward Planning meeting if required	<i>This will have taken place during the initiation phase of the policy/strategy development</i>
What method/s will you use to consult?	<i>See Step 2 of the Consultation Toolkit</i>
What resources are required for these method/s? Has budget been allocated?	<i>This will have taken place during the initiation phase of the policy/strategy development. Also discuss with your line manager</i>
Who will you be consulting?	<i>See Step 3 of the Consultation Toolkit</i>
Agree press release with Media Officer	<i>This can be agreed during the planning phase</i>
Design Microsoft Forms questionnaire for website <ul style="list-style-type: none"> • Ensure any documents have been checked for accessibility by Graphics Officer* • Pass documents to be uploaded to website to Digital Communications Officer with any covering text, confirm start and close date of consultation.* • Include EDI standard optional questions as per Appendix III. • Carefully consider the questions you will be asking, if including the opportunity for free text comments, plan how you will review and report the responses. (* send workflow requests for above)	<i>Ensure you keep the Communications & Policy Team updated as you progress with the preparation of your consultation</i>

Date consultation author adds item to Service Committee forward plan master (check Corporate Calendar for deadlines)		<i>Discuss sign off process with line manager. Check the Corporate Calendar for deadlines.</i>
Prepare covering report to take to service committee to seek approval to go out to public consultation		
Date consultation document signed off by DMT		
Date consultation document signed off EMT if required		
Date Head of Service discusses covering report and draft consultation at Committee Review and Forward Planning Meeting		
Date consultation document signed off by recommending service committee		
Length of consultation. <i>The SBC Policy Statement for carrying out consultations recommends 6 to 8 weeks. In exceptional circumstances, or when statutory guidance/legislation allows, consultations can take place over a shorter period of time.</i>	<i>This will have been agreed at the outset in the planning phase</i>	
If going to Area Committees confirm which round with the Policy & Engagement Officer (<i>February, June, September or December</i>)	<i>Discuss with the Policy & Engagement Officer during the planning phase so that the items can be scheduled onto agendas</i>	
Launch date of consultation	<i>See Step 4 of the Consultation Toolkit</i>	
Re-launch date (halfway through consultation)	<i>See Step 5 of the Consultation Toolkit</i>	
Close date of consultation	<i>This will be agreed at the planning phase</i>	
Collate findings	<i>See Step 6 of the Consultation Toolkit</i>	
Finalise Equality Impact Assessment	<i>See Step 6 of the Consultation Toolkit</i>	
How will findings be reported? (<i>You said we did? Back to recommending committee?</i>)	<i>See Step 6 of the Consultation Toolkit</i>	

Standard equality, diversity and inclusion (EDI) questions

It is good practice to gather EDI data on respondents to public consultations where relevant. This helps to ensure that people with the relevant protected characteristics have had the opportunity to consider and comment on the draft project, strategy, policy or change to service provision.

Gathering data is included under objective 3 of the Corporate Equality Scheme 2024 – 2028 [Strategies and policies - Corporate Equality Scheme](#) (*Ensuring easy, clear and convenient access to our services*), *action 3 (improve information gathering about our customers to ensure no groups or individuals with protected characteristics are disadvantaged when accessing our services)*.

Responding to the questions should be optional and anonymous.

Below are some template questions to use when designing an online consultation questionnaire:

How would you describe yourself?

- ☐ Female
- ☐ Male
- ☐ Prefer not to say
- ☐ Other

What is your age?

- ☐ 17 years old or under
- ☐ 18-24 years old
- ☐ 25-34 years old
- ☐ 35-44 years old
- ☐ 45-54 years old
- ☐ 55-64 years old
- ☐ 65-74 years old
- ☐ 75-84 years old
- ☐ Over 85 years old
- ☐ Prefer not to say

How would you describe your ethnicity?

- ☐ Asian – Arab
- ☐ Asian – Bangladeshi
- ☐ Asian – Chinese
- ☐ Asian – Indian
- ☐ Asian – Pakistani
- ☐ Black – Black African
- ☐ Black – Black Caribbean
- ☐ White – White British
- ☐ White – White Irish
- ☐ Mixed – Asian and White

- ☐ Mixed – Black African and White
- ☐ Mixed – Black Caribbean and White
- ☐ Traveller – Gypsy
- ☐ Traveller – Irish Traveller
- ☐ Traveller – Romany
- ☐ Prefer not to say
- ☐ Other

Do you consider yourself to have a disability?

- ☐ Yes
- ☐ No
- ☐ Prefer not to say

How would you describe your sexual orientation?

- ☐ Heterosexual (straight)
- ☐ Bisexual
- ☐ Gay man or lesbian
- ☐ Prefer not to say
- ☐ Other

How would you describe your religious beliefs?

- ☐ Christian
- ☐ Buddhist
- ☐ Hindu
- ☐ Jewish
- ☐ Muslim
- ☐ Sikh
- ☐ No religion
- ☐ Prefer not to say
- ☐ Other

Public consultations guidance

Help shape council decisions

We want residents to have a real say in the council decisions that affect them. This guide explains our consultation process, how you can get involved and what you can expect from us.

Reasons for carrying out consultations

- Issues where the council has a statutory duty to consult;
- to improve planning, policy and decision making;
- to make better use of resources;
- to access new information, ideas and suggestions;
- to encourage greater participation in the activities of the council;
- to govern by consent;
- to measure residents' satisfaction with the council; and
- to shape council activities around residents' needs and aspirations.

Our promise for a fair consultation

To ensure our consultations are fair, we follow four key legal rules:

- **We'll ask you early:** we'll consult you while ideas are still being developed, so your feedback can make a real difference.
- **We'll give you clear information:** we'll provide the information you need to understand the proposal and give an informed response.
- **We'll give you enough time to respond:** you will have a proper amount of time to consider proposals and share your views without being rushed.
- **We'll genuinely listen to your feedback:** we will carefully consider every response before a final decision is made and show how feedback was used.

How long do consultations last?

Our public consultations typically run for at least six weeks, and wherever possible, for eight weeks. This is our standard to ensure everyone has a fair chance to participate.

Get involved

You can find current and upcoming consultations on:

- our website: swale.gov.uk/consultations
- our social media channels
- posters and leaflets in local community spaces, like libraries.

Your voice matters, and we look forward to hearing from you.

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Policy & Resources Committee Meeting	
Meeting Date	10 September 2025
Report Title	Treasury Management Strategy 2025/26 Update
EMT Lead	Lisa Fillery Director of Resources
Head of Service	Claire Stanbury Head of Finance & Procurement
Lead Officer	
Classification	Open
Recommendations	1. To recommend that Full Council approve the updated Treasury Management Prudential Indicators for 2025/26 as recommended by Audit Committee.

1 Purpose of Report and Executive Summary

- 1.1 Following adoption for the 2024/25 financial reporting year of International Financial Reporting Standard 16 (IFRS 16) – Accounting for Leases, changes are required to the Council's 2025/26 Treasury management strategy.
- 1.2 As a result of the changes to the accounting treatment, there are two treasury management performance indicators within the Treasury Management Strategy that need to be amended. The lease liabilities now reported on the balance sheet are captured within the limits that we set for our Treasury Management Prudential Indicators for the Operational Boundary and Authorised Limit for external debt. These limits were set for 2025/26 before the IFRS 16 calculations were completed to support the publication of the 2024/25 Statement of Accounts.

2 Background

- 2.1 The final outturn report for the 2024/25 Treasury Management Strategy was taken to Audit Committee in July 2025, this reported the breach of the limits for the Operational Boundary and Authorised Limits for external debt resulting from the change in reporting requirements and the reclassification of the rental agreements. The lease liabilities are classified within the borrowing limits albeit, no actual borrowing is linked to these agreements, it is reporting the total liability that arises over the period of the lease arrangements.
- 2.2 The reporting standard requires that assets that are leased by the council should now be recognised as Right of Use Assets and Short/Long term lease liabilities on our balance sheet. For Swale the change has been implemented for assets where we have had very long term arrangements in place for assets that we have been renting, there are no changes to the cost or the operational service delivery, it is purely a change to the technical accounting treatment of the arrangements.
- 2.3 The operational boundary is based on the Council's estimate of most likely scenario for external debt. It links directly to the Council's estimates of capital expenditure, the capital

financing requirement, and cash flow requirements, and is a key management tool for in-year monitoring. Other long term liabilities comprise finance leases and other liabilities that are not borrowing but form part of the Council's debt, and this is the part that needs to be increased.

- 2.4 The table below show the limits in the 2024/25 strategy, the final position as reported to Audit Committee, and the proposed updated limits for the 2025/26 strategy.

	2024/25	2025/26	2026/27	2027/28
Operational Boundary	Revised	Estimate	Estimate	Estimate
Current Strategy	£'000	£'000	£'000	£'000
Borrowing	45,000	45,000	55,000	57,000
Other long term liabilities	1,000	1,000	1,000	1,000
Total operational boundary	46,000	46,000	56,000	58,000
2024/25 Outturn				
Borrowing	13,000			
Other long term liabilities	3,169			
Total operational boundary	16,169			
Proposed Strategy				
Borrowing	45,000	45,000	55,000	57,000
Other long term liabilities	1,000	5,000	5,000	5,000
Total Operational Boundary	46,000	50,000	60,000	62,000

- 2.5 The authorised limit sets the maximum level of external borrowing on a gross basis for the Council. It is measured on a daily basis against all external borrowing items on the balance sheet. This Prudential Indicator separately identifies borrowing from other long term liabilities such as finance leases. The authorised limit is set on the estimate of the most likely, prudent but not worst case scenario with sufficient headroom over and above this to allow for unusual cash movements.
- 2.6 The table below show the limits in the 2024/25 strategy, the final position as reported to Audit Committee, and the proposed updated limits for the 2025/26 strategy.

	2024/25	2025/26	2026/27	2027/28
Authorised Limit	Revised	Estimate	Estimate	Estimate
Current Strategy	£'000	£'000	£'000	£'000
Borrowing	55,000	55,000	65,000	67,500
Other long term liabilities	2,500	2,500	2,500	2,500
Total authorised limit	57,500	57,500	67,500	70,000
2024/25 Outturn				
Borrowing	13,000			
Other long term liabilities	3,169			
Total authorised limit	16,169			
Proposed Strategy				
Borrowing	55,000	55,000	65,000	67,500
Other long term liabilities	2,500	9,000	9,000	9,000
Total authorised limit	57,500	64,000	74,000	76,500

3 Proposals

- 3.1 Members are asked to support the changes to the Treasury Management Strategy for 2025/26 to reflect the changes arising from the inclusion of the long term lease liability on the Operational Boundary and Authorised Limit for external debt.

4 Alternative Options Considered and Rejected

- 4.1 The strategy could remain as originally drafted and the breach of the Operational Boundary and Authorised Limit for external debt reported at year end. This option is not recommended.

5 Consultation Undertaken or Proposed

- 5.1 Audit Committee have discussed the proposal at their meeting on 16 July and have recommended that the strategy is amended.

6 Implications

Issue	Implications
Corporate Plan	Effective treasury management supports the delivery of the Council's objectives.
Financial, Resource and Property	As detailed in the report

Legal, Statutory and Procurement	CIPFA produce a framework for managing treasury activities, called a 'Code'. Councils are legally required to have regard to this Code and members of CIPFA are expected to comply with its requirements. This report fulfils the Council's legal obligation under the Local Government Act 2003 to have regard to both the CIPFA Code and the MHCLG Guidance
Crime and Disorder	None identified at this stage
Environment and Climate/Ecological Emergency	None identified at this stage
Health and Wellbeing	None identified at this stage
Safeguarding of Children, Young People and Vulnerable Adults	None identified at this stage
Risk Management and Health and Safety	None identified at this stage
Equality and Diversity	None identified at this stage
Privacy and Data Protection	None identified at this stage

7 Appendices

- 7.1 The following documents are to be published with this report and form part of the report:
- Appendix I: Updated Treasury Management Prudential Indicators 2025/26

8 Background Papers

1. Proposed Update to Treasury Management Strategy 2025/26 – [Audit Committee 16 July 2025](#).
2. Treasury Management Strategy 2025/26 – approved by [Audit Committee](#), [Policy and Resources](#) and [Full Council](#)

Treasury Management Prudential Indicators 2025/26

Background

There is a requirement under the Local Government Act 2003 for local authorities to have regard to CIPFA's Prudential Code for Capital Finance in Local Authorities (the "CIPFA Prudential Code") when setting and reviewing their Prudential Indicators. The objectives of the Prudential Code are to ensure, within a clear framework, that the capital investment plans of local authorities are affordable, prudent and sustainable, and that treasury management decisions are taken in accordance with good professional practice. To demonstrate that the Council has fulfilled these objectives, the Prudential Code sets out the following indicators that must be set and monitored each year.

Gross Debt and the Capital Financing Requirement (CFR)

This is a key indicator of prudence. Statutory guidance states that external debt should not exceed the capital financing requirement in the previous year plus the estimates of any increase in the CFR at the end of the current year and the next two years. The table below demonstrates that the Council is complying with this aspect of the Prudential Code.

Gross Debt and the Capital Financing Requirement	2024/25 Revised	2025/26 Estimate	2026/27 Estimate	2027/28 Estimate
	£'000	£'000	£'000	£'000
Capital Financing Requirements	52,113	74,800	80,500	80,300
Gross External Debt (incl leases)	(10,000)	(37,500)	(48,000)	(50,500)
Internal Borrowing	42,113	37,300	32,500	29,800

Estimates of Capital Expenditure

This indicator is set to ensure that the level of proposed capital expenditure remains within sustainable limits and, in particular, to consider the impact on Council Tax. (See Capital Programme in 2025/26 Budget Report to Policy and Resources Committee.)

Capital Expenditure and Financing	2024/25 Revised	2025/26 Estimate	2026/27 Estimate	2027/28 Estimate
	£'000	£'000	£'000	£'000
Total Expenditure	41,816	21,626	4,935	2,745
Section 106 Contribution	338	0	0	0
Grants	16,076	13,616	2,725	2,725
Capital receipts	343	0	0	0
Reserves	825	210	210	20
Borrowing	24,234	7,800	2,000	0
Total Financing	41,816	21,626	4,935	2,745

Ratio of Financing Costs to Net Revenue Stream

This is an indicator of affordability, highlighting the revenue implications of existing and proposed capital expenditure by identifying the proportion of the revenue budget required to meet financing costs, net of investment income.

Ratio of Financing Costs to Net Revenue Stream	2024/25 Revised	2025/26 Estimate	2026/27 Estimate	2027/28 Estimate
General Fund Total	4.48%	5.64%	6.55%	6.44%

Authorised Limit for External Debt

The Authorised Limit sets the maximum level of external borrowing on a gross basis (i.e., not net of investments) for the Council. It is measured on a daily basis against all external borrowing items on the Balance Sheet (i.e., long and short-term borrowing, overdrawn bank balances and long-term liabilities). This Prudential Indicator separately identifies borrowing from other long-term liabilities such as finance leases. It is consistent with the Council's existing commitments, its proposals for capital expenditure and financing, and its approved treasury management policy statement and practices.

The Authorised Limit has been set on the estimate of the most likely, prudent but not worst-case scenario with sufficient headroom over and above this to allow for unusual cash movements.

The Authorised Limit is the statutory limit determined under Section 3(1) of the Local Government Act 2003 (referred to in the legislation as the Affordable Limit).

Authorised Limit for External Debt	2024/25 Revised	2025/26 Estimate	2026/27 Estimate	2027/28 Estimate
	£'000	£'000	£'000	£'000
Borrowing	55,000	55,000	65,000	67,500
Other long-term liabilities	2,500	9,000	9,000	9,000
Total	57,500	64,000	74,000	76,500

Operational Boundary for External Debt

The operational boundary is based on the Council's estimate of most likely (i.e., prudent but not worst case) scenario for external debt. It links directly to the Council's estimates of capital expenditure, the capital financing requirement and cash flow requirements, and is a key management tool for in-year monitoring. Other long-term liabilities comprise finance leases and other liabilities that are not borrowing but form part of the Council's debt.

Operational Boundary	2024/25 Revised £'000	2025/26 Estimate £'000	2026/27 Estimate £'000	2027/28 Estimate £'000
Borrowing	45,000	45,000	55,000	57,000
Other long-term liabilities	1,000	5,000	5,000	5,000
Total Operational Boundary	46,000	50,000	60,000	62,000

Interest Rate Exposures: This indicator is set to control the Council's exposure to interest rate risk. The upper limits on the one-year revenue impact of a 1% rise or fall in interest rates will be:

Interest rate risk indicator	Limit
Upper limit on one-year revenue impact of a 1% <u>rise</u> in interest rates	£(180,000)
Upper limit on one-year revenue impact of a 1% <u>fall</u> in interest rates	£180,000

Maturity Structure of Borrowing

This indicator is set to control the Council's exposure to refinancing risk. The upper and lower limits on the maturity structure of fixed rate borrowing will be:

Maturity Structure of Borrowing	Lower Limit for 2025/26 %	Upper Limit for 2025/26 %
Under 12 months	0	100
12 months and within 24 months	0	100
24 months and within 5 years	0	100
5 years and within 10 years	0	100
10 years and above	0	100

Time period starts on the first day of each financial year. The maturity date of borrowing is the earliest date on which the lender can demand repayment.

Long-term treasury management investments

The purpose of this indicator is to control the Council's exposure to the risk of incurring losses by seeking early repayment of its investments. The prudential limits on the long-term treasury management investments will be:

Price Risk Indicator	2025/26 Estimate £'000	2026/27 Estimate £'000	2027/28 Estimate £'000	No Fixed Date £'000
Limit on principal invested longer than 1 year	10,000	10,000	10,000	10,000

Long-term investments with no fixed maturity date include strategic pooled funds and real estate investment trusts but exclude money market funds and bank accounts with as these are considered short-term.

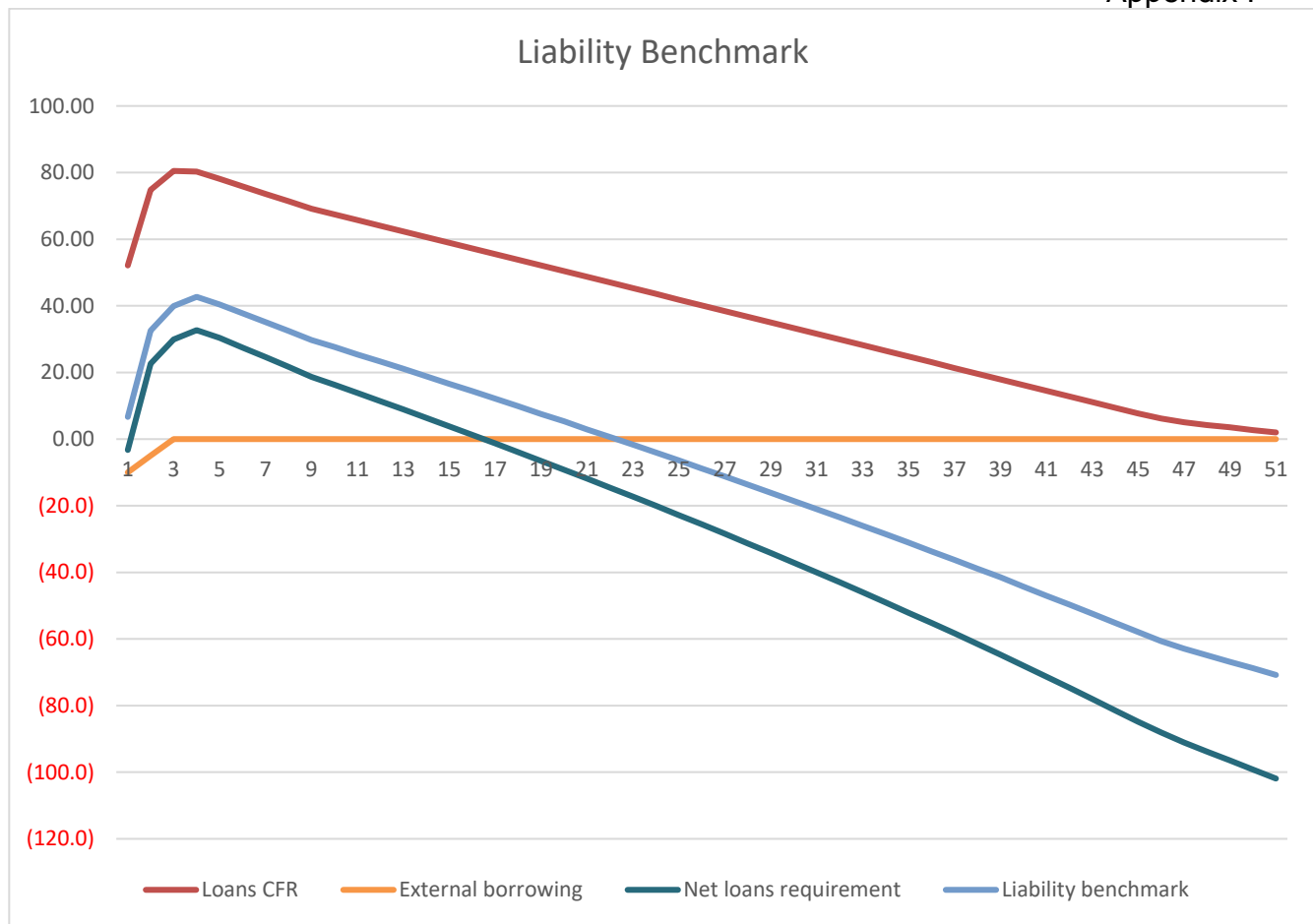
Liability benchmark: To compare the Council's actual borrowing against an alternative strategy, a liability benchmark has been calculated showing the lowest risk level of borrowing. This assumes that cash and investment balances are kept to a minimum level of £10m at each year-end to maintain sufficient liquidity but minimise credit risk.

The liability benchmark is an important tool to help establish whether the Council is likely to be a long-term borrower or long-term investor in the future, and so shape its strategic focus and decision making. The liability benchmark itself represents an estimate of the cumulative amount of external borrowing the Council must hold to fund its current capital and revenue plans while keeping treasury investments at the minimum level required to manage day-to-day cash flow.

Prudential Indicator: Liability benchmark

	31.3.24 Actual £m	31.3.25 Estimate £m	31.3.26 Forecast £m	31.3.27 Forecast £m	31.3.28 Forecast £m
Loans CFR	52.1	74.8	80.5	80.3	78.1
Less: Balance sheet resources	(55.4)	(52.1)	(50.6)	(47.6)	(47.7)
Net loans requirement	(3.3)	22.7	29.9	32.7	30.4
Plus: Liquidity allowance	10	10	10	10	10
Liability benchmark	6.7	32.7	39.9	42.7	40.4

The long-term liability benchmark above assumes capital expenditure funded by borrowing, minimum revenue provision on new capital expenditure based on income, expenditure and reserves all increasing by inflation and appropriate asset life values (8 years for waste vehicles, 50 years for all other assets).



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Policy and Resources Committee Meeting	
Meeting Date	10 th September 2024
Report Title	Annual Delivery Plan 2025/26
EMT Lead	Larissa Reed, Chief Executive
Head of Service	Emma Wiggins, Director Regeneration and Neighbourhoods
Lead Officer	Emma Wiggins, Director Regeneration and Neighbourhoods
Classification	Open
Recommendations	<ol style="list-style-type: none"> 1. To note the contents of the report and achievements of the Annual Delivery Plan (ADP) 2024/25 (Appendix II) 2. To agree the ADP 2025/26 (Appendix I)

1 Purpose of Report and Executive Summary

- 1.1 This report sets out the Annual Delivery Plan (ADP) to show delivery of the actions through the year 2025/26.
- 1.2 The ADP has been pulled from the 3-year service plans that have been developed to show how services will be delivered over the life of the Corporate Plan 2023 – 2027. The ADP shows priorities for the second year, 2025/26, that will be delivered within the capacity and resource of the council. This is shown in Appendix I.
- 1.3 The Year One 2024/25 actions and achievements against them is shown in Appendix II.

2 Background

- 2.1 The Corporate Plan was adopted 3rd April 2024. This sets out the vision and priorities for the council 2023 - 2027. It is set around 5 key objectives:
 - Community - To enable our residents to live, work and enjoy their leisure time safely in our borough and to support community resilience.
 - Economy - Working with our businesses and community organisations to work towards a sustainable economy which delivers for local people.
 - Environment - To provide a cleaner, healthier, more sustainable and enjoyable environment, and to prepare our borough for the challenges ahead.
 - Health & Housing - To aspire to be a borough where everyone has access to a decent home and improved health and wellbeing.
 - Running the Council - Working within our resources to proactively engage with communities and outside bodies to deliver in a transparent and efficient way.

- 2.2 For each theme, a 3 year service plan has been developed which prioritises and sets the work programmes for each service. These also set out statutory duties, areas for service improvement, key projects and procurements. These are internally focused, more operational documents.
- 2.3 To focus resource and staff capacity, an ADP has been pulled together from these service plans, that highlights priorities for delivery for 2025/26.
- 2.4 The ADP for 2025/26 is found in Appendix I.
- 2.5 The achievements of the ADP 2024/25 is shown in Appendix II.

2 Proposals

- 3.1 To note the contents of the report and achievements of the Annual Delivery Plan (ADP) 2024/25 (Appendix II).
- 3.2 To agree the ADP 2025/26 (Appendix I)

4 Alternative Options Considered and Rejected

- 4.1 To not have an annual delivery plan to measure delivery and success. This is not recommended as this is a way to be accountable and to demonstrate delivery of the service plan and as such the Corporate Plan. It is also a way of prioritising the work programme to ensure there is capacity and resource to deliver.

5 Consultation Undertaken or Proposed

- 5.1 Consultation was undertaken to develop the Corporate Plan, from which the service plan and annual delivery plan stems from.
- 5.2 There was a Joint Chairs/ Vice Chairs of Committees away day 21st July 2025 to determine the priorities for the ADP 2025/26.
- 5.3 There have been staff sessions to discuss and engage on the service plans.

6 Implications

Issue	Implications
Corporate Plan	The Annual Delivery Plan takes on board all the priorities of the Corporate Plan with the same themes running through it.

Financial, Resource and Property	The ADP has resources identified and is within the budget framework.
Legal, Statutory and Procurement	For specific project there will be legal requirements to support delivery and these have been identified and communicated. Some actions identified are statutory requirements eg homelessness Where projects have identified procurement requirements these will be factored into delivery timescales eg leisure options
Crime and Disorder	No direct implications for this report, albeit reducing crime and disorder and delivery of the CSP is a statutory requirement
Environment and Climate/Ecological Emergency	A priority within the ADP
Health and Wellbeing	Health and well being is considered as part of the cost of living work. Staff wellbeing is linked to the action around employer of choice
Safeguarding of Children, Young People and Vulnerable Adults	None identified
Risk Management and Health and Safety	Management and monitoring of audit and risk is a PI supporting the ADP
Equality and Diversity	An EIA was conducted as part of the Corporate Plan development which this ADP supports
Privacy and Data Protection	Information governance is a priority within this ADP

7 Appendices

7.1 The following documents are to be published with this report and form part of the report:

- Appendix I: Annual Delivery Plan 2025/26
- Appendix II: Annual Delivery Plan 2025/26

8 Background Papers

Corporate Plan 2023 - 2027 : [Council - Corporate Plan \(swale.gov.uk\)](https://www.swale.gov.uk/corporate-plan)

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Short Title	Description	Managed by	(Service) Committee
Asset Disposal Programme	Implement the Property Asset Strategy and key projects.	Kieren Mansfield	Economy & Property
Swale House - lettings	Manage the marketing and letting processes to continue the letting of identified surplus space at Swale House. Continue to optimise the use of space to secure income, including the undertaking of minor capital works and any related review of building operations, including reception.	Kieren Mansfield/Deborah Hardy	Economy & Property
Planned maintenance	Continue to deliver on our identified programme of regular maintenance and condition surveys, transforming the balance of service towards planned rather than reactive maintenance.	Deborah Hardy	Economy & Property
Levelling-Up Fund - delivery	Deliver the LUF capital programme to completion and handover, to time and to budget, and maximising social value, at: - Beachfields (including wider landscaping) - Masters House - Sheppey College	Inger Lorraine	Economy & Property
Levelling Up Fund - Leisure centre and landscaping input	Input in research, design and delivery of the leisure and public realm elements of the bid.	Martyn Cassell / Jay Jenkins	Economy & Property
UKSPF - delivery (including REPF)	Deliver the UK Shared Prosperity Fund revenue and capital programmes 25/26 (including Rural England Prosperity Fund) to time and to budget, and prepare for future multi-year programming as information becomes available.	Kieren Mansfield	Economy & Property
Local Plan	Progress the emerging Local Plan to Examination in Public and Full Council adoption, including: - Commissioning / directly delivering and reviewing work to meet identified gaps in the evidence base - Reviewing, updating and developing Local Plan policies - Updating and approving the Local Development Scheme - Undertaking Reg 18 / Reg 19 consultations, seeking and processing consultation responses, in line with the agreed Local Development Scheme	Natalie Earl	PTPWG and P&R
Housing Options Improvement Programme	Identify areas where improvements can be made to the service and new projects can be delivered	Charlotte Hudson	Housing, Health and Communities
Future affordable housing supply	To assess options and strategy to ensure affordable housing provision and future pipeline/supply. SRH Delivery.	Charlotte Hudson	Housing, Health and Communities
Renters Rights Act Implementation	Implement the Renters Rights Act	Charlotte Hudson	Housing, Health and Communities
Government Funded Programmes	To deliver housing and health related programmes that we receive government funding for e.g RSI, Healthy Homes etc. LAHF	Multiple	Housing, Health and Communities
Health and Care Partnership	Delivery of agreed health related projects in partnership with HCP	Sarah-Jane Radley	Housing, Health and Communities
Housing, Homelessness and Rough Sleeping strategy	Delivery of Strategy actions and refresh of strategy for April 2027	Charlotte Hudson	Housing, Health and Communities
Coordination of the Community Safety Partnership	Coordination of CSP Executive and appropriate sub-groups or task and finish groups	Sarah-Jane Radley	Housing, Health and Communities
Cost of Living Work	Delivery of agreed cost of living projects and coordination of meeting groups (internal and external). Including delivery of Household Support Fund	Sarah-Jane Radley	Housing, Health and Communities
SVA contract	Monitoring of Swale Voluntary Alliance Contract	Sarah-Jane Radley	Housing, Health and Communities
CCTV Expansion	Expansion of the CCTV control centre both from a physical construction and increase business services.	Sean Smith	Housing, Health and Communities
Future Leisure contract options	Delivering the tender process following Member working group and committee decisions to commission the new service. Completion of the tender process and preparing for mobilisation of the new contract.	Jay Jenkins/Martyn Cassell	Housing, Health and Communities

Playground Savings Review	Looking at possible reductions in service to meet budget pressures. The review will follow principles set out at Housing, Health and Communities committee.	Rob Lucas / Jay Jenkins	Housing, Health and Communities
Motorhome and caravan project - Sheppey	A project crossing multiple departments aiming to try and solve the parking of vehicles long term in areas across the Island (Shingle bank/Shellness). Implementation following the recent committee decisions and monitoring and review of impact.	Jay Jenkins/Alister Andrews/Martyn Cassell	Environmental Services and Climate Change
Eastchurch Cliffs - public engagement	Liaising and preparing info for residents to form part of a comprehensive community engagement plan for residents impacted by potential cliff erosion.	San Nuyent / Steph Curtis / Phil Sutcliffe / Mike Knowles	Environmental Services and Climate Change
Review of the Grounds maintenance service	Following the review of service, deliver the committee decision to extend the contract until 2029 and make savings by service changes.	Rob Lucas	Environmental Services and Climate Change
SBC property solar and renewables	Delivery of the Swale House solar panel project. Continued feasibility of solar and other renewables on SBC owned property. Exploration of funding and applications.	Deborah Hardy / Janet Hill	Environmental Services and Climate Change
Waste and Recycling / Street Cleansing new contract improvements	Build on the mobilisation work and look to further streamline process, bring about improvements through sound monitoring and performance management, particularly across street cleansing.	Alister Andrews / Kelly Mehmet	Environmental Services and Climate Change
Public toilet service full review	Provide Members with the information and options for a redesigned service. Deliver public consultation and prepare reports for final committee decision. Deliver tender to recommission the new service as decided.	Andre Bowen / Alister Andrews	Environmental Services and Climate Change
Roll out food waste to all remaining areas of the Borough	Identify the remaining areas, design a collection service, deliver the resident communications and implement changes in time for the government deadline of 1 April 2026.	Kelly Mehmet / Donna Seager	Environmental Services and Climate Change
Review and retender the litter enforcement contract	Following the cessation of the previous contract, we need to devise a new contract model and specification and go out to tender. Member and resident views will be sought on the priorities for consideration in the new service.	Michelle Sampson / Alister Andrews	Environmental Services and Climate Change
Stray Dogs Policy and Service Review	Draft, consult and implement a stray dogs policy to cover our service principles. Review existing kennel contract and service	Michelle Sampson / Alister Andrews	Environmental Services and Climate Change
Borough Local Cycling and Walking Infrastructure Project and/or area based LCWIP (IoS, Sittingbourne, rural)	Undertake public consultation, approve final Plan and then seek external funding for scheme feasibility. Integrate in Local Plan.	Janet Hill / Michelle Anderson	Environmental Services and Climate Change
Delivery of the Climate and Ecological Emergency Action Plan	Deliver revised actions, include updates on progress in the annual report.	Janet Hill / Samuel Brookfield	Environmental Services and Climate Change
Financial Management	Maintain a fiscally sound and stable position (deliver a balanced budget)	Claire Stanbury	P&R

Employer of choice	Be the employer of choice, ensuring we retain highly qualified and experienced people with shared values	Larissa Reed	P&R
Member/ officer relationship	Work to improve member/ officer relations and build trust and respect	Larissa Reed	P&R
Local Government Reorganisation	Work with KCC, Medway and Kent Districts to develop options and business models for LGR , engage stakeholders and engage the public	Larissa Reed	P&R

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Action No.	Short Title	Description	Managed by	(Service) Committee	Year One Update
EP2	Asset Disposal Programme	Implement the Property Asset Strategy and key projects	Kieren Mansfield	Economy & Property	<p>The Disposals and Community Asset Transfer Policies (which support the Property Asset Strategy) were approved by Committee in January 2025.</p> <p>Project highlights include</p> <ul style="list-style-type: none"> - transfer of TS Hazarde to Faversham Town Council concluded - short term operator secured on site at Barton's Point until October 2025; ecological surveys concluded (April 2025) to help shape longer term options - lease signing for two further units at Bourne Place secured - Fountain St site demolished, and sale agreed at auction - Neptune Terrace Store returned to use (initially by Sheppey Matters) - Parish and Town Council expressions of interest for asset / land transfer received and being progressed.
EP13	Swale House - lettings	Manage the marketing and letting processes to complete the letting of identified surplus space at Swale House and continue to optimise the use of space to secure income, including the undertaking of minor capital works and any related required review of building operations, including reception.	Kieren Mansfield/Deborah Hardy	Economy & Property	Two new tenants have been welcomed to Swale House, although one has since left due to changes to their own internal operations. All other tenants remain. The remaining space identified as surplus continues to be marketed with support from the appointed Letting Agent. A small budget has been agreed within Swale 2025-26 UK Shared Prosperity Fund to support upgraded IT infrastructure.
EP21	Planned maintenance	Deliver on our identified programme of regular maintenance and condition surveys and begin to transform the balance of service towards planned rather than reactive maintenance.	Deborah Hardy	Economy & Property	The programme of Condition Survey works has been regularly reviewed and proactive works undertaken where budget has allowed. The urgent works at Faversham Pools were complete, with disruption minimised. Quotes have been received for the agreed Sheppey Pool work and preferred contractor identified. Significant planned works have included the removal of asbestos from the Old Library in Sheerness, roof works at Faversham Pools, and works to the Swallows Leisure Centre plant room. Additional works have been accommodated as tenancy opportunities have arisen, such as Barton's Point cafe internal and external refurbishment works, and internal works at Neptune Terrace. These have been supported by UKSPF investment where possible.
EP31	Levelling-Up Fund - delivery	Deliver the LUF capital programme from design to completion / handover, to time and to budget at: <ul style="list-style-type: none"> - Beachfields (including wider landscaping) - Masters House - Sheppey College 	Inger Lorraine / Jay Jenkins	Economy & Property	Contract awards for the construction projects at Masters House and Beachfields were agreed by Committee in December 2024. Planning permissions for Masters House and the extension of Sheppey College were secured in September 2024, with permission for Beachfields granted in January 2025. A ground-breaking event took place to mark the start of the construction of the Sheppey College extension in February 2025, followed by similar events to mark the start of works at Beachfields and Masters House. All Beachfields tenants have successfully relocated operations to accommodate the refurbishment and extension works. Public consultation took place on the design of the historically-themed Sheerness Shipwreck Adventure Golf course, with input from local schools. The Adventure Golf was formally opened in late July, and early uptake has been very positive. The programme continues to be within the budget envelope, and within agreed extensions of time set by MHCLG.
EP37	UKSPF - delivery (including REPF)	Manage, amend and deliver the UK Shared Prosperity Fund revenue and capital programmes (including Rural England Prosperity Fund) to time and to budget, including: <ul style="list-style-type: none"> - Town Centre capital programme - Town Centre Action Grant scheme - Community Infrastructure Grant scheme - Rural Swale Small Business Grant scheme - People and skills programme - Wider capital and revenue programme 	Kieren Mansfield	Economy & Property	<p>Full programme spend of £1.168m was achieved across UKSPF and REPF funding streams. Highlights include:</p> <ul style="list-style-type: none"> - the installation of the second phase of the Faversham wayfinding scheme - restoration and interpretation project at Periwinkle Mill - landscape project at Trinity Gardens, Sheerness - development of a 'Visit Swale' photo and video library - the award of 54 grants across small business, town centre and community infrastructure schemes, totalling £404,613. <p>This programme informed proposals for 25-26 UKSPF and REPF investment which were agreed at Committee in March 2025.</p>

PTP80	Local Plan	Progress 2022-2040 Local Plan to Examination in Public and Full Council adoption, including: - Commissioning an exploratory piece of work regarding advisory housing targets - Determining which non-statutory evidence base pieces to commission - Commissioning or directly delivering work to meet identified gaps in the evidence base - Reviewing, updating and developing Local Plan policies - Review evidence with members in line with the agreed Internal Communications Plan - Approval of the Local Development Scheme - Undertaking Reg 18 Draft Plan consultation and processing consultation responses - Undertaking Reg 19 Draft Plan consultation and processing consultation responses	Natalie Earl / Stuart Watson	PTPWG and P&R	<p>The exploratory piece of work was reviewed by the Planning and Transportation Policy Working Group in November 2024. Members then proceeded to agree the Local Plan housing target at Full Council in January 2025. Employment Land allocations and the Local Plan's Vision and Objectives have also been agreed. A Preferred Growth Option was recommended by PTPWG and P&R, but awaits review and progression to Full Council.</p> <p>The development of the evidence base and draft policies has continued. Full Council resolved in July 2025 to amend the Local Development Scheme in line with PTPWG and P&R's recommendations, given the delay to the Highsted Inquiry proceedings. The launch of the Reg 18 consultation is being prepared for progression through PTPWG, P&R and Full Council, with consultation launch in early January.</p>
Multi	Housing Options Improvement Plan	Identify areas where improvements can be made to the service	Charlotte Hudson	Housing and Health	Extensive work has been undertaken as part of the Housing Options Improvement Plan and a range of systems have been updated, the TA purchase programme is near completion with 47 out of 50 properties completed by end of March 25. Restructure and additional investment in team has taken place. This has resulted in a reduction in households in TA numbers and costs.
Multi	Future affordable housing supply	To assess options and strategy to ensure affordable housing provision and future pipeline/supply	Charlotte Hudson	Housing and Health	Work continues with registered providers to engage them in providing land led and S.106 schemes in Swale. Despite excellent delivery over the past few years, there are challenges to viability and capacity and despite a strong s.106 pipeline RPs are not able to make the schemes work. 228 new Affordable Homes delivered during 24/25
HC3	Breaking Barriers Innovation - Sheppey Project	Delivery of next phase of Breaking Barriers innovation project	Charlotte Hudson	Housing and Health	Intervention designed for Sheppey work readiness pilot programme, delayed roll out due to changes with secondary school system on the Island. Further funding required to deliver further work. Currently linking into the Kent Marmot Coastal Programme to establish if pilot can be funded. MSHCP have identified some funding.
Multi	Government Funded Programme	To deliver housing and health related programmes that we receive government funding for e.g RSI, Healthy Homes etc. LAHF	Multiple	Housing and Health	Programmes have been delivered utilising a wide range of grant funding.
HC63	Health and Care Partnership - Work well / MEAM / Relevant projects	Delivery of agreed health related projects in partnership with HCP	Sarah-Jane Radley	Housing and Health	SBC has continued and active engagement in the Swale Health and Care Partnership and working on a range of initiative and delivery strands.
HC1	Housing, Homelessness and Rough Sleeping strategy	Delivery of Strategy actions and refresh of strategy for April 2027	Charlotte Hudson	Housing and Health	Good progress has been made against the delivery priorities of the Housing, Homelessness and Rough Sleeping Strategy 2023-27. Annual report is provided to Housing and Health Committee.
HC49	Coordination of the Community Safety Partnership	Coordination of CSP Executive and appropriate sub-groups or task and finish groups	Sarah-Jane Radley	Community and Leisure	The Community Safety Partnership has delivered against the priorities set out in the 24/25 CSP plan. The strategic assessment has been prepared to review priorities for next years plan. Delivery of a range of initiatives and use of the PCC grant have been achieved.
HC53	Cost of Living Work	Delivery of agreed cost of living projects and coordination of meeting groups (internal and external)	Sarah-Jane Radley	Community and Leisure	Cost of Living partnership group continues to meet and deliver a co-ordinated response for residents. The Household Support Fund has delivered direct support through VCSE organisations.
HC52	SVA contract	Monitoring of Swale Voluntary Alliance Contract	Sarah-Jane Radley	Community and Leisure	Extensive work undertaken with the Swale Voluntary Alliance and programme of work delivered, outcome report has been provided. Currently establishing work programme for 25/26 funded through UKSPF.
EL4	Civil Parking Enforcement Contract extension	The Civil Parking Enforcement contract with APCOA (and Maidstone Borough Council) expires 1st June 2025. The option to extend by three years until 1st June 2028 forms part of the current contract arrangement. If the option to extend is not used, then procurement for a new service will need to start in August 2024 at the latest.	Jeff Kitson	Community and Leisure	Project Complete: The Contract was approved for extension by Community and Leisure Committee on 11 December 2024.
EL5	Respond to the KCC review of on-street parking functions	Review KCC proposals, contribute to task and finish group and consider impact on services and operation	Martyn Cassell	Community and Leisure	This continues to be reviewed at KCC now in light of political change and LGR
EL8	Future Leisure contract options	Reviewing current service, preparing options paper for future operating models, financial projections, facility investment requirements, manage and prepare information for Member working group.	Jay Jenkins	Community and Leisure	Two year extension agreed by Community and Leisure Committee running from April 25 - March 27. Consultants appointed for long term contract. Agreement by Community and Leisure to remain contracted out for a 10+5 year contract and to include Faversham Pools in the tender. Tender started in July 2025.
EL28	Playing Pitch Audit/Strategy - approval and implementation	Audit and review of current and future needs to support local plan evidence	Graeme Tuff	Community and Leisure	Community and Leisure have approved the stage C report and recommendations. Working through the final stages of Stage D with national governing bodies of sport and Sport England. Expect formal adoption later in 2025.

EL98	Motorhome and caravan project Sheppey	A project crossing multiple departments (ERT/Leisure and Technical/Housing/Safeguarding) aiming to try and solve the parking of vehicles long term in areas across the Island (Shingle bank/Ship on Shore/Shellness).	Jay Jenkins/Alister Andrews/Martyn Cassell	Community and Leisure	Two Community and Leisure meetings have discussed the issues and considered the results of a public consultation. Agreed to implement overnight charging at Shellness and Shingle Bank. Implemented for summer 2025.
EL13	Eastchurch Cliffs - cliff erosion management and public engagement	Exploring options following Council motion. Canvas opinion from other national organisations and prepare a report for consideration by committee. Coordinate input from other departments. Liaising and preparing info for residents to form part of a comprehensive community engagement plan.	Steph Curtis / Phil Sutcliffe/ Mike Knowles	Community and Leisure and P&R	Following extensive work by officers, a report was taken to Environment committee in March 2025. Committee agreed to shift focus from changing the policy to engaging those affected. Officers given remit to develop engagement plan agreed by Environment committee.
EL16	SBC Owned Street Lighting replacement project	Project to convert the existing SBC lighting stock to LEDs. Preparing specification, tendering work, overseeing completion of works, ongoing maintenance plan	Mike Knowles	Environment and Climate Change	Project well underway. 119 lights replacements have been completed with 96 remaining. This has resulted in an estimated 7.35 tonnes of carbon being saved since the start of the project. 17 columns replaced with 14 remaining. There is insufficient funding remaining to replace all lights, once the funding has been spent in full we will bring a report back to Members.
EL30	Review of the Grounds maintenance service	Undertake full review of current service provision and look at different service models ahead of the end of current contract in January 2027. Deliver target of £175k reduction on contract fee from 25/26.	Rob Lucas	Environment and Climate Change	An initial paper detailing potential savings was rejected by Members in favour of looking at in-house services. Recent announcements on local government reorganisation have resulted in revisiting the savings and extension options. Wider review of operating models to be undertaken when we know future outcomes of LGR.
EL36	Waste and Recycling / Street Cleansing new contract mobilisation	Prepare for delivery of the new waste contract. Set up new processes and procedures. Liaise with contractor throughout mobilisation period. Make changes where required.	Alistair Andrews / Kelly Mehmet	Environment and Climate Change	Roll-out throughout 24/25. Various adjustments to collection rounds and additional rounds added in. 3 - 4 re-routes to ensure service is as effective and efficient as possible. IT systems and uploads updated regularly. Street cleansing review ongoing with transfer to online monitoring delayed whilst collections were resolved. Full Member Scrutiny process carried out with key recommendations being monitored by Waste working group. Review of litter bins ongoing through 2024/25. QR code project underway to make reporting of litter bins easier.
EL67	Review of CEE Action Plan and delivery of the revised actions	Following Carbon Trust baselining review CEE actions with action holders. Agree with Environment Committee. Deliver revised actions	Janet Hill	Environment and Climate Change	Full Carbon footprinting recalculation undertaken. Revised Action Plan to Committee 18 March and adopted unanimously.
EL75	SBC property solar and renewables	Feasibility of Solar and other Renewables on SBC owned property. Exploration of funding and applications, installation management (JJ as HoS)	Deborah Hardy	Environment and Climate Change	Project approved at Environment committee for Swale House installation. Currently out to tender. Evaluation and contract award to follow with hope for installation by summer 2025.
EL89	Active Travel - Funding Search	Pursue funding opportunities as and when they arise such as: • Active Travel Fund 5 • Capability Fund • Cycling UK • Sustrans • Developers • Particular focus on Rural enhancements EL88	Michelle Anderson	Environment and Climate Change	KCC Capbility Funding received to help develop feasibility studies for key walking and cycling routes. Major bid gone in for 25/26 activity.
EL119	Air Quality Policy	Develop a policy formalises what we can do to improve air quality for the benefit of our residents, outlines the principles we adopt for monitoring. Including the completion of the Annual Status Report, actions identified in the Air Quality Action Plan 2023-28.	Clare Lydon	Environment and Climate Change	Guidance document for Cllrs and other partners detailing how work within the local air quality management regime has been produced. A cllr briefing has also been delivered on the subject.
F8	Financial Management	Maintain a fiscally sound and stable position (deliver a balanced budget)	Claire Stanbury	P&R	Budget set for 2025/26, balanced through the use of reserves.
EL4	Elections	Delivery of lawful elections	Jo Millard	P&R	Achieved
EL67	Democratic Process	Ensure delivery of democratic process	Jo Millard	P&R	Achieved
IG9	Information handling	Ensure information is held and handled legally and efficiently	Claire Stanbury	P&R	Team continue to monitor data breaches and report as necessary. Ensure that DPIAs are completed for new systems or processes to ensure the legal handling of information.
SS2	Employer of choice	Be the employer of choice, ensuring we retain highly qualified and experienced people with shared values	Larissa Reed	P&R	Continue to introduce incentives and programmes to attract people. Offer learning & devpt programme. Values work will be complete by September 2025.
SS2	Member/ officer relationship	Work to improve member/ officer relations and build trust and respect	Larissa Reed	P&R	Work ongoing

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Policy and Resources Committee	
Meeting Date	10 September 2025
Report Title	New and Amended Fees for Applications made to the Planning Service
EMT Lead	Emma Wiggins Director of Regeneration and Neighbourhoods
Head of Service	Joanne Johnson Head of Place
Lead Officer	Carly Stoddart Continuous Improvement Lead
Classification	Open
Recommendations	<ol style="list-style-type: none"> 1. That members recommend to Full Council the introduction of charges for amendments to undetermined applications in accordance with the fee schedule as set out in paragraph 2.5 of this report. 2. That members recommend to Full Council the introduction of fees for monitoring biodiversity net gain (BNG) in accordance with the fee schedule as set out in paragraph 2.11 of this report. 3. That members recommend to Full Council the fee schedule for Planning Performance Agreements (PPAs) as set out at paragraph 2.10 of this report. 4. That members recommend to Full Council the revised pre-application and post-decision advice fee schedule as set out in Tables 1, 2 and 3 at paragraph 2.6 of this report.

1 Purpose of Report and Executive Summary

- 1.1 This report provides an update to an item that was considered at the 12 June 2025 Policy and Resources Committee where it was deferred to allow for a Task and Finish Group to be set up to discuss the proposals in more detail. The Task and Finish Group met twice to discuss the proposals.
- 1.2 At the 12 June 2025 Committee, the Planning Service proposed to make service improvements through the introduction of fee schedules to recover costs for services that it provides that are not part of the statutory provision. The proposals were for the introduction of charging applicants to amend their undetermined applications either through the alteration of previously submitted details or the submission of new supporting information. A fee schedule and related procedure to cover the process was set out.
- 1.3 It was also proposed to introduce fees for the monitoring of biodiversity net gain (BNG). A separate fee schedule and related procedure was set out to cover this process.

- 1.4 Taking a holistic approach and review of the non-statutory services within the Planning Service, an explanation of the interplay with associated Planning Service fees such as pre-application and post-decision advice, and Planning Performance Agreements (PPAs) was given. New fees were proposed for PPAs and amendments proposed to existing pre-application advice fees.
- 1.5 In reviewing and considering the proposals within the report it was decided at Policy and Resources Committee on 12 June 2025 to defer the item for further information and clarification to be discussed by a Task and Finish Group.
- 1.6 This report summarises the outcome of the Task and Finish Group discussions and seeks Committee approval of the recommendations to introduce new fees and amend existing fees.

2 Background

- 2.1 The purpose of the Task and Finish Group was to discuss and provide clarification on the deferred Policy and Resources item *New and Amended Fees for Applications made to the Planning Service* with the outcome to reach agreement of appropriate fees to present back to Policy and Resources Committee.
- 2.2 Each political party was invited to nominate a representative to be part of the Task and Finish Group. Subsequently, a total of two meetings were held to discuss the deferred item. Comparison tables of pre-application advice fees currently being applied by Kent Local Planning Authorities were sent out ahead of the first meeting at members' request (Appendix I).
- 2.3 At the Task and Finished meetings, those present summarised the queries and concerns their Groups had expressed following the item's discussion at the 12 June Policy and Resources Committee meeting and the concerns expressed more widely by Committee members. The areas of clarification, the response and outcome are set out in the table below.

Area of Clarification	Response
Benchmarking – Information requested to show comparison with Kent authorities.	<p>Two tables were circulated to all invitees ahead of the meeting. One table showed Swale's current pre-application fees against all other Kent authorities and the other showed the fees proposed within the P&R item against all other Kent authorities. Both tables highlighted the most expensive and the cheapest option per category.</p> <p>Members present advised the comparison tables were very helpful.</p> <p>Outcome: no further queries in this regard.</p>

Householder Fees	<p>Recollection from the P&R meeting was there was a question around whether the fee for householders is too punitive for householders and that the spread of fees made some members feel the householder fee was proportionately higher.</p> <p>Officers confirmed that the fees for pre-application advice for householders and minors remained as agreed by Members in February.</p> <p>In terms of amendments, officers advised that some authorities do not charge for householder amendments.</p> <p>A member raised concern regarding particular impact on homeowners in conservation areas when applications are required for very small matters. The concern was that it might create a barrier to follow the proper route and lead to enforcement cases. The potential to waive fees entirely for householder pre-application advice was raised. It was felt the fee for amendments was not problematic.</p> <p>Officers advised that the conservation area status didn't create too many more situations above non-conservation areas in terms of what requires planning permission and that the burden is greater on Listed Buildings.</p> <p>Clarification was also provided that the householder pre-application advice fee and the amendment charge are both cheaper than a second application fee. Where previously it was possible to submit a revised application free of charge within one year of decision, this was removed from the process by central Government.</p> <p>Officers advised that this fee had not changed and was in line with what members had agreed in February.</p> <p>Outcome: no change to the officer report proposed.</p>
<p>Why limit the number of amendments?</p> <p>Concern around whether Ward Cllrs' or other relevant parties'</p>	<p>Officers explained that the limit in terms of the number of rounds of amendments is proposed to encourage take up of the pre-application advice service (and PPAs) as a first step to achieving a higher quality scheme from the outset at submission. This is in line with national policy and practice guidance.</p>

<p>concerns would not be able to be taken into account to achieve a better outcome.</p>	<p>If applicants are limited to only being able to submit amendments if they have been through the pre-application advice process, this should mean that the proposal coming in should be of a high quality from the start.</p> <p>For smaller applications, this should result in there not being any need for an amendment if the pre-application advice is followed, but if the situation does arise, there is the ability to undertake one round.</p> <p>For larger applications, there is more chance of amendments being required, given that generally there is a greater number of consultees, who may raise issues requiring amendments. This is why the process is written to include for two rounds if the applicant has entered into a PPA.</p> <p>In recognition of the fact that some consultees may be late in providing their response or that a straight forward change to the scheme could make for a better outcome (which could've been raised by a member, Parish Council, driven by public responses, the case officer etc.), the process as proposed includes a caveat that further rounds of amendments may be permitted at the discretion of the Planning Manager (Planning Applications) level or above within the Planning Service. It is agreed that the Council should not prevent the opportunity for a scheme to be improved through a simple amendment and the inclusion of the caveat to allow further rounds ensures there is flexibility within the process.</p> <p>Restricting/controlling the rounds of amendments allowed and being clear in that on our website and literature means that the Council does not have to accept round after round of amendments which contributes to a backlog and often causes friction and misunderstanding with those members of the public that are living within the vicinity of an application that is being continuously amended and consultation letters sent out to them.</p> <p>Setting out the restriction/control over the number of rounds of amendments will make the Council's position publicly clear in terms of its processes. This puts the Council in a better position to refuse proposals at an earlier stage where it is considered that changes required are more substantial and that simple amendments will not result in a satisfactory outcome. A clear process that is publicly set out will also</p>
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	<p>help defend those decisions to refuse at appeal by demonstrating the reasonable behaviour of the Council in its consideration and determination of such applications.</p> <p>Outcome: no further queries in this regard.</p>
What is a 'round' of amendments?	<p>It was felt that there may be some confusion around the terms 'amendment' and/or 'round of amendments'.</p> <p>What usually happens in the case of considering an application is that it is validated and allocated to a case officer. Consultation letters, and/or site and press notices are posted.</p> <p>Following (and during) the consultation period, the case officer will be reviewing the comments received and looking at whether a response suggests changes and/or further information that is required to either/or be in a position to determine the application and/or to improve the proposal.</p> <p>Requests for further information and/or changes may come from one or several responses, usually statutory consultees but may include ward members and/or Parish Councils.</p> <p>The case officer will consider these requests in the context of the legislation and planning policy and will advise the applicant of <u>all</u> the requested changes at the time of review. If the applicant chooses to respond and submit the requested further information/changes, in the majority of cases they will usually address all the requested amendments in one go and submit it as a 'package' on one date. This would constitute one round of amendments, and the relevant proposed fee applied.</p> <p>Should the applicant wish to submit the requested information in separate submissions across multiple days/weeks, which can happen if say, for example, a highways response is ready before an ecology response, then it would constitute multiple rounds of amendments.</p> <p>In the multiple rounds scenario, officers across the service would have to check and perform the admin associated with the submission including sending consultation letters (which could be multiple letters to the same people) across multiple days.</p>

	<p>In the case where a consultee response is significantly late and if a requested change is necessary, this may require the caveat being instigated where the applicant is allowed a 'round' of amendments beyond the stated limit and at no additional fee if an amendment fee has already been paid for an earlier round.</p> <p>Outcome: no further queries in this regard.</p>
Can Members get involved in pre-application advice discussions?	<p>The proposals set out in the P&R paper include presentations to members within the fee structure for those applicants entering into PPAs.</p> <p>Concern was expressed that the presentations are developers selling their schemes to members rather than a dialogue. It was noted that there is an element of it being a marketing exercise, but that the purpose of the presentations is an opportunity for applicants to set out and explain to members what their development proposals are. It is also an opportunity for members to ask questions and make comments. The presentations would be open for all members to attend should they want to. Ward members in attendance would be in the position to provide any local knowledge that may inform the proposals one way or another should they want to.</p> <p>Members that sit on Planning Committee would need to be mindful that should they wish to vote on the proposals at such time that they may be presented to the Planning Committee, that they don't prejudice or pre-determine their position in their comments.</p> <p>Outcome: no further queries in this regard.</p>
Concern the P&R discussion excluded the proposed BNG fees from debate.	<p>Concern was expressed with regard to the BNG process as a whole and that the BNG benefits are not necessarily provided on or close to the sites in question.</p> <p>Officers explained that the BNG process within the legislation sets out a hierarchy which is a preference for BNG to be provided on site, then off-site and at the end is the ability to purchase credits. There is nothing to prevent the applicant choosing any of those options other than the cost implications they would bear. It is understood that the cost of credits is intentionally expensive to deter applicants from this option except as a last resort.</p>

	<p>It was asked that if applicants provided BNG on sites closer to the application site, could there be a reduction or could we waive the monitoring fee as an incentive?</p> <p>It was advised that the land has to be available and suitable for the relevant habitat creation. It is likely in most cases that the applicant does not own land nearby and that is suitable. Based on training sessions attended and Kent wide officer engagement sessions on BNG, it is likely that in most cases with off-site provision, the applicant will purchase biodiversity units from a habitat bank.</p> <p>The frustrations with the BNG legislation and process was noted but it is what we have to work with currently and the requirement for monitoring for 30 years has an implication on Council resources. This is why the proposal in the P&R paper is seeking to recover costs associated with monitoring activity. It was confirmed that the costs have been produced accounting for the anticipated time and monitoring activities undertaken from KCC Ecological Advice Service and Swale Borough Council officers.</p> <p>Outcome: no further queries in this regard.</p>
Member Protocol	<p>It was agreed to remove this from the P&R process and take it to the Constitution Working Group as a formal update to the second appendix to part 4.1 of the Constitution, "Engaging in pre-application planning discussions".</p> <p>Outcome: new approvals route agreed.</p>

2.4 Following the Task and Finish Group meetings there was no changes to the proposed new and amended fees for applications made to the Planning Service with associated procedures where applicable.

2.5 The fees and charges proposed are as follows:

Submission of Amendments / Additional Information Draft Fee Schedule

Application Type	Description	Fee per submission
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Lawful Development Certificate (existing and proposed) Householder	Householder alterations and extensions only.	£129
Lawful Development Certificate (existing and proposed) Other	Development involving establishing lawful use of properties.	£210
Householder	Householder development (affecting a single home) including extension, outbuildings and other works within the property boundary.	£240
Minor Development	<ul style="list-style-type: none"> Includes between 1 to 9 dwellings. Covers up to 0.5 hectares. Commercial development less than 1,000 square metres 	£300
Major Development	<ul style="list-style-type: none"> Includes between 10 to 49 houses or flats. Covers between 0.51 to 2 hectares. Commercial development between 1,001 to 4,999 square metres 	£600
Large Major Development	<ul style="list-style-type: none"> Includes 50 - 249 houses or flats. Covers between 2.1 to 5 hectares. Commercial development between 5,000 to 9,999 square metres 	£750 10% discount when part of a PPA
Strategic Major Development	<ul style="list-style-type: none"> Includes 250+ houses or flats. Covers more than 5 hectares. Commercial development of 10,000 square metres or more 	£1000 10% discount when part of a PPA
Listed Building Consent	Development of a listed building including extensions and internal alterations.	£240
Discharge of Condition	Applications for the discharge of planning conditions.	£210

Advertisements and Shopfronts and any other proposals not listed above.	Shop fronts, signs and adverts for a shop or attached to a business premises. Any other proposals not listed above.	£210
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Note: The Council reserves to the right to review whether a further amendment will be allowed for exceptional, complex proposals. The relevant fee set out above will apply for each submission.

2.6 Revised Pre-application advice and post-decision advice fee schedules

Table 1: Pre-application advice fees

<p>Householder Pre-App – £360.00</p> <p>Site visit at officer discretion</p> <p>Minor Developments Pre-App – £989.50</p> <p>A minor development is one where any of the following applies:</p> <ul style="list-style-type: none"> • Includes between 1 to 9 dwellings. • Covers up to 0.5 hectares. • Commercial development less than 1,000 square metres <p>Major Developments Pre-App – £3,545.50</p> <p>A major development is one where any of the following applies:</p> <ul style="list-style-type: none"> • Includes between 10 to 49 houses or flats. • Covers between 0.51 to 2 hectares. • Commercial development between 1,000 to 4,999 square metres <p>Large Major Developments Pre-App – £5,395.50</p> <p>A large major development is one where any of the following applies:</p> <ul style="list-style-type: none"> • Includes 50 - 249 houses or flats. • Covers between 2.1 to 5 hectares. • Commercial development between 5,000 to 9,999 square metres <p>Strategic Major Development Pre-App - £6,500 + Discounted PPA (see separate fee schedule for PPAs)</p> <ul style="list-style-type: none"> • Includes 250+ houses or flats. • Covers more than 5 hectares.
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- Commercial development of 10,000 square metres or more

Other Fees

Listed Building (householder) – written advice only – you will pay £150.00.

Heritage & Urban Design attendance at meeting (PER HOUR) – £260.00

NB: the Listed Building and the Heritage and Urban Design fees are in addition to those above, however written advice will continue to be provided on a case-by-case basis.

Any other advice not set out above – meeting and or written at officer discretion - hourly rates– price on application.

*** Parish Councils, Voluntary Organisations, National Charities or Charities that are not ‘not-for-profit’** will be charged at 50% of the above pre-application advice fee

Design Review – To be advised at the time of request

Admin Fee – An admin fee of £75 will be applied to any refund that may have been agreed due to exceptional circumstances.

The fees set out in this schedule cover the cost of a meeting followed by a written response.

Table 2: Post decision and follow-up pre-application advice fees

Advice	Suggested Fee
Follow up advice – minor amendments to a proposal following initial advice.	Hourly rate – to be calculated at submission and worked out depending on the amendment or can be invoiced after and could be charged at an hourly rate or part thereof
Post decision advice – refusal	50% of relevant pre-app fee
Amendments to an approved scheme	Hourly rate – to be calculated at submission and worked out depending on the amendment or can be invoiced after and could be charged at an hourly rate or part thereof
Discharge of conditions	Hourly rate – to be calculated at submission and worked out depending on the number of conditions and what they cover or can be invoiced after and

	could be charged at an hourly rate or part thereof
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Table 3: Hourly rates

Officer	Hourly Rate (including relevant on-costs)
Planning Assistant	£108
Planning Officer	£140
Principal Planner	£162
Team Leader	£182
Planning Manager	£215
Urban Design	£260
Heritage	£170
Council Officers from other departments providing advice such as affordable housing, greenspaces	£170

2.7 Planning Performance Agreement Fee Schedule

2.8 For clarity in relation to the PPA fee schedule set out below the fee stated in the table as (£ amount + VAT) is the fee as given in the 12 June Committee 2025 report and is correct fee.

2.9 A £1000 administration fee is then applied to the PPA fee, which is also subject to VAT. The total amounts given in bold of the 12 June 2025 Committee did not take account of VAT being applied to the £1000 administration fee. These values given in bold below are therefore different to those in the original Committee paper, but this is solely due to that error being corrected

2.10

Development Category	Fee inc. VAT
50-100 homes 1,000 to 4,999 sqm commercial floorspace	(£15,586.00 + VAT) £19,903.20
101-199 homes 5,000 – 9,999 sqm commercial floorspace	(£22,612.00 + VAT) £28,334.40
200+ homes 10,000+ sqm commercial floorspace	(£39,059.00 + VAT) £48,070.80
Pre-application / Pre-decision Presentation to Members	(£1050 + VAT) £2460 per presentation

This option should only be offered and secured as part of a PPA in relation to sites of significance and in accordance with Member-Developer Protocol for pre-application and pre-decision engagement.	
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Note: All fees include administration fee of £1000.

2.11 Biodiversity Net Gain (BNG) Monitoring Fee Schedule

Threshold Category	Calculation
All development that is not Major development, qualifies for Small Sites Metric and results in Significant Biodiversity Gain	Ecologist + Planning Tech Officer (+all other costs set out within Mycelia) $£1,412.66 + £3,313 = £4,725.66$ $+ £233.72 \text{ (Contingency/SV)} = £4,959.38$ $+ £227.95 \text{ (Enf. Day Rate x 1 day)} = £5,187.33$ $+ £302.40 \text{ (Legal Day Rate x 1 day)} = \textbf{£5,489.73}$
Major Developments up to 10 Biodiversity Units	Ecologist + Planning Tech Officer (+all other costs set out within Mycelia) $£2,825.32 + £3,313 = £6,138.32$ $+ £934.86 \text{ (Contingency + SV)} = £7,073.18$ $+ £341.93 \text{ (Enf. Day Rate x 1.5 day)} = £7,415.11$ $+ £453.60 \text{ (Legal Day Rate x 1.5 day)} = \textbf{£7,868.71}$
Major Developments between 11 and 20 Biodiversity Units	Ecologist + Planning Tech Officer (+all other costs set out within Mycelia) $£6,776.55 + £3,890 = £10,666.55$ $+ £1,869.72 \text{ (Contingencyx2 + SVx2)} = £12,536.27$ $+ £455.90 \text{ (Enf. Day Rate x 2 day)} = £12,992.17$ $+ £604.80 \text{ (Legal Day Rate x 2 day)} = \textbf{£13,596.97}$
Major Developments over 21 Biodiversity Units	Ecologist + Planning Tech Officer (+all other costs set out within Mycelia) $£9,035.40 + £3,313 = £12,348.40$ $+ £3,739.44 \text{ (Contingencyx4 + SVx4)} = £16,087.84$ $+ £569.88 \text{ (Enf. Day Rate x 2.5 day)} = £16,657.72$ $+ £756.00 \text{ (Legal Day Rate x 2.5 day)} = \textbf{£17,413.72}$

3 Proposals

- 3.1 That members recommend to Full Council the introduction of charges for amendments to undetermined applications in accordance with the fee schedule as set out as set out in paragraph 2.5 of this report.
- 3.2 That members recommend to Full Council the introduction of fees for monitoring biodiversity net gain (BNG) in accordance with the fee schedule as set out in paragraph 2.11 of this report.
- 3.3 That members recommend to Full Council the fee schedule for Planning Performance Agreements (PPAs) as set out at paragraph 2.10 of this report.
- 3.4 That members recommend to Full Council the revised pre-application and post-decision fee schedule as set out in Tables 1, 2 and 3 at paragraph 2.6 of this report.

4 Alternative Options Considered and Rejected

- 4.1 To continue to not charge for the submission of amended plans. This represents the cheapest option for applicants. However, this discourages the use of the Council's pre-application service, encourages speculative applications and applications of a lower quality and causes costs to be incurred by the Council that primarily benefit applicants rather than the wider community. This is not recommended. Lower quality schemes often add a significant amount of time to the assessment and determination of applications which in turn has the potential to create backlogs. Extended periods of time to determine applications provides uncertainty for both the applicant and surrounding residents.
- 4.2 The Council could apply the charge to a selection of application types rather than all application types. However, as the Council incurs the costs of processing amendments for all types of applications, it is recommended that all types of applications should be liable for the charge.
- 4.3 Given the discretion that exists in relation to the processing of amendments and additional information, the Council could refuse to process changes after an application has been validated. In some instances, this can be a sound approach. However, there are also instances where this would put the Council at some risk of costs being awarded to appellants in any appeal process. Moreover, this approach would prevent applications being improved during the course of an application. In this regard, where there are some applications that can be granted planning permission because the planning balance indicates that the overall benefits outweigh the harms, these are often the types of cases where there is scope to achieve improvements that further increase the benefits. It is not recommended to take away the opportunity to improve schemes.

- 4.4 The Council could choose not to impose a fee for the monitoring of BNG sites. This leaves the Council with the burden of finding resource in existing budgets for financing appropriate software for assessing and monitoring sites and engaging with KCC EAS for their expertise in reviewing reports and absorbing the cost of the time for existing staff within the Planning Service and Legal Services taking on additional monitoring duties for a period of 30-years for each relevant BNG site. Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010 No 948, as amended by the Community Infrastructure Levy (Amendment) (England) (No. 2) Regulations 2019 (The CIL Regulations) gives specific powers for monitoring fees. There is current practice already within Legal Services to charge for work on S106 agreements (for any purpose). This proposal relates to additional planning and administration officer time associated with these additional S106 agreements. It is considered that the introduction of a fee schedule for monitoring BNG is a reasonable approach.
- 4.5 The Council could continue applying the current pre-application advice fees and methodology for generating a fee for PPAs. Whilst there will be some continuation of applicants utilising the service, this is not recommended as it will lead to confusion and inconsistencies in the pre-application fees being applied to development proposals falling outside of the defined categories; it will continue to result in inconsistencies in the fee being applied to PPAs and some services will also continue being provided without cost recovery, thus not maximising the Council's opportunities in this regard. Inconsistencies and significant increases in fees will likely deter applicants from engaging in these processes, resulting in poorer quality in proposals submitted at application stage, increased risk of appeals and the associated costs and inefficient use of officer time resulting potential backlogs.

5 Consultation Undertaken or Proposed

- 5.1 Further to consideration of the report at Policy and Resources Committee on 12 June 2025 (which set out the related processes which supported the proposed fees being derived) a Task and Finish Group was set up to seek clarification and to reach agreement on the proposals.

6 Implications

Issue	Implications
Corporate Plan	The proposals would align with the Corporate Plan as it would enable the Planning Service to better operate within its resources whilst maintaining the ability to engage with communities and deliver the service in a transparent and efficient way.

Financial, Resource and Property	<p>The proposal to introduce a fee schedule for the submission of amendments / additional information would enable the Council to recover the costs associated with this discretionary process that is already undertaken.</p> <p>The proposal to introduce a fee schedule for monitoring BNG sites would enable the Council to recover costs associated with monitoring activities for a significant period.</p> <p>The proposal to introduce a revised pre-application advice and post decision fee schedule and a new PPA fee schedule would enable to the Council to maximise the recovery of costs associated with this discretionary process that is already undertaken.</p> <p>The agreed Council budget for 25/26 indicates an additional £50k planning fee income will be secured across chargeable services. These fees will contribute towards that, as well as to wider service budgetary pressures.</p>
Legal, Statutory and Procurement	<p>The provision of a planning function and processing applications made to the Planning Service is a statutory requirement. However, the submission and processing of amendments and additional information to undetermined applications, the provision of pre-application and post-decision advice and entering into PPAs, are discretionary elements of the planning function that already occurs within Swale. In accordance with Section 93 of the Local Government Act 2003 and Section 3 of the Localism Act 2011, the suggested approach to recover costs associated with this work is lawful and has no other legal or procurement implications.</p> <p>The CIL Regulations allow for the cost of monitoring BNG to be secured and therefore the suggested approach to recover costs in this way is manner is also lawful and has no other legal or procurement implications.</p>
Crime and Disorder	There are no implications for crime and disorder.
Environment and Climate/Ecological Emergency	<p>With regard to the introduction of fees in relation to the submission of amendments / further information, the revision of pre-application and post-decision advice fees and the introduction of a fee schedule for PPAs, there are no direct implications in respect of the environment and the climate/ecological emergency.</p> <p>Including an Officer discretion at managerial level within the department to discount the fee or allow further amendments where an improvement to an acceptable scheme is proposed (perhaps to deliver energy efficiency or renewable energy facilities) could</p>

	<p>ensure that the suggested approach does not prohibit gains in this regard.</p> <p>The introduction of fees for monitoring BNG would have a positive impact on the environment and would contribute positively towards addressing the ecological emergency. The introduction of monitoring fees would ensure the Council has adequate resources to undertake their duty to monitor and report on the delivery of BNG and take appropriate action where this may be failing.</p>
Health and Wellbeing	There are no implications for health and wellbeing.
Safeguarding of Children, Young People and Vulnerable Adults	There are no implications for the safeguarding of children, young people and vulnerable adults.
Risk Management and Health and Safety	<p>With all the proposals set out, there is a risk in the potential change to the image of the Council arising from the introduction of a practice that is adding more cost for applicants. However, the introduction of fees in relation to discretionary services and to monitor BNG is becoming commonplace and it is considered that the benefits will outweigh the costs.</p> <p>No Health and Safety issues are anticipated.</p>
Equality and Diversity	None at this stage.
Privacy and Data Protection	None at this stage.

7 Appendices

- 7.1 The following documents are to be published with this report and form part of the report:
- 4.2 Appendix I: Comparison tables of pre-application advice fees currently being applied by Kent Local Planning Authorities.

8 Background Documents

- 8.1 Item 10 Policy and Resources Committee 12 June 2025 - New and Amended Fees for Applications made to the Planning Service.

Link: (Public Pack)Agenda Document for Policy and Resources Committee, 12/06/2025 19:00

Appendix I

Comparison tables of pre-application advice fees currently being applied by Kent Local Planning Authorities

Comparison of Current Pre-app Fees with Kent Authorities

* indicates the highest amount.

** indicates the lowest amount.

	Meeting & Written	Meeting & Written	Meeting SV & Written	Meeting	Meeting & Written	Meeting & Written	Meeting & Written	Meeting & Written	Meeting & Written	Meeting & Written	Meeting & Written	Meeting & Written	Meeting & Written
Category	Swale (Current)	Ashford	Canterbury Inc SV	Dartford	Dover	Folkestone and Hythe	Gravesham	Maidstone	Medway	Sevenoaks	Thanet Updated (19/05/2025)	Tonbridge & Malling	Tunbridge Wells
Householder (works to an existing dwelling)	360.00	353.00	515.00	360.00	220.00	218.00	*489.00	367.00	233.00 (meeting only)	186.30	215.00	312.00 (written only)	**110.00
Minor Development (where any of the following applies: Includes between 1-9 dwellings Covers upto 0.5ha Commercial development less than 1000sqm	989.50	Resi 832-1386 Comm 198.50 - 1588	1500.00	Resi 1038.00 – 1218.00 Comm 1038	Resi 720.00 – 1100.00 Comm 355.00 – 1320.00	735.00 – 1130.00 Comm 360.00 – 1359.76		755.00 – 1069.00	802.00	698.63	675.00	*1221.00 (1-4) - 1832.00 (5-9)	**220.00
Major Development (where any of the following applies: Includes between 10-49 dwellings Covers between 0.51 – 2 ha Commercial development between 1000-4999sqm	*3545.00 – £3600.00 +100 per additional dwelling	Resi 3307.50 Comm. 1440.00 + 600.00 per 500.00 sqm	5250.00	2534.40 + 816.00 for unallocated sites	1320.00 Comm 1285.00 + 535.00 per 500.00 sqm	3500.00 Comm 1359.76 + 437.50 per 525 sqm		**1509.00	2405.00	2296.10	3200.00	2973.00 (10-99)	500.00 per hour - 995.00 per hour

Large Major Development (where any of the following applies: Includes between 50-249 dwellings Covers between 2.1 – 5 ha Commercial development between 5000-9999sqm)	*6000.00 + 100.00 per addition dwelling *For 200 dwellings the fee is 21000.00 Comm over 10000 sqm 6000.00	Resi 5292.00	7494.00	3414.00 +1650.00 for unallocated sites	5475.00	5700.00		**1793.00	4808.00	3415.52	6000.00 (50-199) – 8000.00 (200+)	2973.00 (10-99) - 3850.00 (100+)	995.00 per hour
Strategic Major Development (where any of the following applies: Includes between 250+ dwellings Covers more than 5 ha Commercial development of 10000sqm or more)	*Fees above applicable. *For 250 dwellings the fee is 26000.00	6000.00 + PPA	7494.00	3414.00 +1650.00 for unallocated sites	5475.00	5700.00		**1793.00	4808.00	3415.52	8000.00	3850.00 (100+)	995.00 per hour
Heritage and Urban Design attendance at meeting (per hour) NB: This fee is in addition to those above, however written advice will continue to be provided on a case by case basis)	£257.00	Per hour		210.00				252.00 – 565.00	*280.00		**150.00		

Listed building (householder) – Written advice only	£123.50	441.00	515.00		450.00	294.00	*520.00	**94.00	170.00				
Local not-for-profit charities	**Free	*50% of fee			*50% of fee	*50% of fee							Free unless represented and then fee based on above dependent on scale of development
Others not in category above charged at an hourly rate	Price on application. Hourly rates proposed			504		*800.00						473.00 (written only)	
* Parish Councils, Voluntary Organisations, National Charities or Charities that are not ‘not-for-profit’ will be charged based on development size	Fee will be charged on dev. Size.	50% of fee or at discretion of Assistant Director			50% of fee	50% of fee							**Free unless represented and then fee based on above dependent on scale of development
Design Review													
Admin Fee Applied to any refund that may have been agreed due to exceptional circumstances.													

Comparison of Proposed Pre-app Fees with Kent Authorities

* indicates the highest amount.

** indicates the lowest amount.

	Meeting & Written	Meeting & Written	Meeting, SV & Written	Meeting	Meeting & Written	Meeting & Written	Meeting & Written	Meeting & Written	Meeting & Written	Meeting & Written	Meeting & Written	Meeting & Written	Meeting & Written
Category	Swale (Proposed)	Ashford	Canterbury Inc SV	Dartford	Dover	Folkestone and Hythe	Gravesham	Maidstone	Medway	Sevenoaks	Thanet Updated (19/05/2025)	Tonbridge & Malling	Tunbridge Wells
Householder (works to an existing dwelling)	360.00	353.00	515.00	360.00	220.00	218.00	*489.00	367.00	233.00 (meeting only)	186.30	215.00	312.00 (written only)	**110.00
Minor Development (where any of the following applies: Includes between 1-9 dwellings Covers upto 0.5ha Commercial development less than 1000sqm)	989.50	Resi 832-1386 Comm 198.50 - 1588	1500.00	Resi 1038.00 – 1218.00 Comm 1038	Resi 720.00 – 1100.00 Comm 355.00 – 1320.00	735.00 – 1130.00 Comm 360.00 – 1359.76		755.00 – 1069.00	802.00	698.63	675.00	*1221.00 (1-4) - 1832.00 (5-9)	**220.00
Major Development (where any of the following applies: Includes between 10-49 dwellings Covers between 0.51 – 2 ha Commercial development between 1000-4999sqm)	*3545.00	Resi 3307.50 Comm. 1440.00 + 600.00 per 500.00 sqm	5250.00	2534.40 + 816.00 for unallocated sites	1320.00 Comm 1285.00 + 535.00 per 500.00 sqm	3500.00 Comm 1359.76 + 437.50 per 525 sqm		**1509.00	2405.00	2296.10	3200.00	2973.00 (10-99)	500.00 per hour - 995.00 per hour
Large Major Development (where any of the following applies: Includes between 50-249 dwellings Covers between 2.1 – 5 ha Commercial development between 5000-9999sqm)	5395.00	Resi 5292.00	7494.00	3414.00 +1650.00 for unallocated sites	5475.00	5700.00		**1793.00	4808.00	3415.52	*6000.00 – 50-199) – 8000.00 (200+)	2973.00 (10-99) - 3850.00 (100+)	995.00 per hour

Strategic Major Development (where any of the following applies: Includes between 250+ dwellings Covers more than 5 ha Commercial development of 10000sqm or more)	6500.00 + discounted PPA	6000.00 + PPA	7494.00	3414.00 +1650.00 for unallocated sites	5475.00	5700.00		**1793.00	4808.00	3415.52	*8000.00	3850.00 (100+)	995.00 per hour
Heritage and Urban Design attendance at meeting (per hour) NB: This fee is in addition to those above, however written advice will continue to be provided on a case by case basis	£260.00	Per hour		210.00				252.00 – 565.00	*280.00		**150.00		
Listed building (householder) – Written advice only	£150.00	441.00	515.00		450.00	294.00	*520.00	**94.00	170.00				
Local not-for-profit charities	**Free	*50% of fee			*50% of fee	*50% of fee							Free unless represented and then fee based on above dependent on scale of development
Others not in category above charged at an hourly rate	Price on application. Hourly rates proposed			504		*800.00						473.00 (written only)	
* Parish Councils, Voluntary Organisations, National Charities or Charities that are not ‘not-for-profit’ will be charged based on development size	50% of the above relevant pre-application advice fee.	50% of fee or at discretion of Assistant Director			50% of fee	50% of fee							**Free unless represented and then fee based on above dependent on scale of development
Design Review	To be advised at the time of request												

Admin Fee Applied to any refund that may have been agreed due to exceptional circumstances.	£75.00												
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Policy and Resources Committee Meeting	
Meeting Date	10 th September 2025
Report Title	Hackney Carriage and Private Hire Licensing Policy 2025 - 2030
EMT Lead	Emma Wiggins, Director of Regeneration and Neighbourhoods
Head of Service	Charlotte Hudson, Head of Housing and Community Services
Lead Officer	Johanna Thomas, Licensing Team Leader
Classification	Open
Recommendations	1. Members are asked to note the Licensing Committee decision to approve the refreshed Swale Hackney Carriage and Private Hire Licensing policy 2025-2030 and to agree its adoption.

1 Purpose of Report and Executive Summary

- 1.1 To apprise Members of the steps taken in revising the Swale Hackney Carriage and Private Hire Licensing Policy and summarise the amendments recommended to be made as agreed by the Licensing Committee.
- 1.2 A draft Swale Hackney Carriage and Private Hire Licensing Policy 2025-2030 was presented to Licensing Committee at its meeting of 14th July 2025. ([Public Pack](#))[Agenda Document for Licensing Committee, 14/07/2025 19:00](#)
- 1.3 At the Licensing Committee meeting it was resolved that:
 - (1) *That Members considered and agreed the recommendations made in the evaluation grid attached as Appendix III to the report and that officers updated the draft policy document at Appendix I prior to formal approval.*
 - (2) *That following the policy being updated, it be recommended to the Policy and Resources Committee for adoption to commence on 15 September 2025.*
 - (3) *That approval be delegated to the Policy and Communities Manager for any future minor amendments to appendices of the Statement of Hackney Carriage and Private Hire Licensing policy.*
 - (4) *That the biannual tariff be increased in 2026 as per the National Rail Fares increase for 2026 and not be cumulative, and this be updated in the draft policy document at Appendix I prior to formal approval.*
- 1.4 Members are requested to approve the Swale Hackney Carriage and Private Hire Licensing Policy 2025-2030 as attached as **Appendix I** so that it can be published and come into effect on 15th September 2025.

2 Background

- 2.1 The overarching aim of the taxi and private hire licensing regime is to protect the public by ensuring that all drivers, vehicles and operators are licensed and regulated by authorities in accordance with statutory provisions, primarily set out in the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976 and, where they exist, local policy considerations
- 2.2 The aim of the licensing function is to provide a safe environment for those using licensed vehicles and also for ensuring that drivers are knowledgeable and understand their responsibilities to the travelling public e.g. particularly around safeguarding for vulnerable children and adults. Hackney carriages (taxis) and private hire vehicles, their drivers and their operators also have an important role to play in an integrated transport system. They are able to provide services in situations where public transport is either not available, outside “normal hours” such as the evening or at weekends, or for those with mobility difficulties.
- 2.3 Although it is not a statutory requirement, the Council has published a hackney Carriage and Private Hire Licensing Policy (approximately) every three years since 2014; taking into account the Best Practice guidance issued by the Department of Transport, the Regulator’s Code, and any other relevant matters
- 2.4 The DfT issued new Best Practice Guidance in November 2023. Because of the implications within the Guidance, it is necessary to bring forward a new edition of the Swale BC Hackney Carriage and Private Hire Licensing Policy which is intended to run from 2025 – 2030.

3 Proposals

- 3.1 This 2025 revised policy seeks to incorporate the recommendations of the 2023 DfT Best Practice Guidance where it is considered appropriate to do so.
- 3.2 A draft policy was presented to Licensing Committee on 11th February 2025 and members agreed to the public consultation that ran for 12 weeks from 26th February to 28th May 2025. The responses to the consultation were evaluated and amendments made to the draft policy where appropriate.
- 3.3 The consultation responses and table of amendments and the amended draft policy were presented to Licensing Committee on 14th July along with a report detailing the main issues raised for the members of that committee to consider.
- 3.4 Members of the Licensing Committee considered the consultation responses and agreed the recommendations made by officers, they recommended the policy to the Policy and Resources Committee for formal approval.

- 3.5 The draft Swale Hackney Carriage and Private Hire Licensing Policy 2025-2030 is attached as **Appendix I**.

4 Alternative Options Considered and Rejected

- 1.1 The Policy and Resources Committee could choose to:
- a) revert to the original taxi policy, however this is not recommended as it does not incorporate any recommendations from the 2023 Department for Transport Guidance; or
 - b) request that licensing officers look at the policy again and return to Licensing Committee with a further draft at a later date.

5 Consultation Undertaken or Proposed

- 5.1 A consultation ran between 26th February to 28th May 2025. Methods of consultation and consultees were agreed by Members at the 11th February 2025 meeting of the Licensing Committee.
- 5.2 Despite the wide-ranging nature of the consultation only 11 (eleven) responses were received in total, 8 (eight) from the taxi trade, 1 (one) from a trade association, 1 (one) from a ward councillor and 1 (one) from Kent County Council Transport . No responses were received from the general public.

6 Implications

Issue	Implications
Corporate Plan	<p>The service is an important regulatory function undertaken to ensure the safety of the travelling public of Swale as well as its licensed drivers.</p> <p>There are links to:</p> <p>Community - To enable our residents to live, work and enjoy their leisure time safely in our borough and to support community resilience.</p> <p>Economy - Working with our businesses and community organisations to work towards a sustainable economy which delivers for local people.</p> <p>Environment - To provide a cleaner, healthier, more sustainable, and enjoyable environment, and to prepare our borough for the challenges ahead.</p>

	Running the Council - Working within our resources to proactively engage with communities and outside bodies to deliver in a transparent and efficient way.
Financial, Resource and Property	It is the intention that the cost for taxi drivers to complete disability awareness training will be met by the individual drivers. The Hackney Carriage and Private Hire Policy is not envisaged to place any new financial pressures on the Council.
Legal, Statutory and Procurement	There is no legal requirement for a policy, however it is best practice. The Department for Transport's statutory standards make a clear recommendation that licensing authorities should publish a single licensing statement or policy for taxi and private hire vehicle licensing that brings together all their procedures in one place. Rights of appeal are granted to all applicants and licensees who are aggrieved by any licensing decisions. Changes to the table of fares published by the Authority must be made in accordance with the procedure set out in s.65 Local Government (Miscellaneous Provisions) Act 1976. That sets out the notification requirements and the process if unresolved representations are made to any proposed changes.
Crime and Disorder	The licensing role of the Council is important in improving the safety, security and welfare of the Borough's residents, visitors and business community by ensuring an adequate supply of properly licensed taxis as a safe mode of transport for the public, particularly when other public transport is unavailable and ensuring the safety of drivers. A published policy setting out how the council will achieve these aims is seen as an important regulatory tool.
Environment and Climate/Ecological Emergency	The draft policy has considered environmental sustainability with regards to emissions from vehicles and the council's commitment to be carbon neutral by 2045.
Health and Wellbeing	The health of the residents of the borough could be improved by addressing vehicle emissions. Also, by ensuring public safety.
Safeguarding of Children, Young People and Vulnerable Adults	Licensing regimes are largely designed to protect public safety. The DfT Statutory Standards go even further to protect public safety, especially children, young people, and vulnerable adults and these have been incorporated into this policy revision. Air quality is also an important aspect of protecting children and vulnerable adults and therefore imperative that the licensing of vehicles contributes to improving the air quality in the borough.
Risk Management and Health and Safety	Whilst each individual application will be judged on its own merits, a documented policy ensures a transparent and consistent approach to licensing that reduces the opportunity for challenge through the Courts. Challenges to a particular decision are more likely to fail if the Council can demonstrate that it has adhered its published policy and there was no reason to depart from it. Any

	departure will be based on material evidence and will be documented giving clear and compelling reasons for doing so.
Equality and Diversity	This policy includes provisions for licence holders to meet requirements contained in the Equality Act 2010 and The Taxis and Private Hire Vehicles (Disabled Persons) Act 2022. An Equality Impact Assessment will be conducted after the public consultation.
Privacy and Data Protection	All applications processes will be in line with privacy and data protection regulations

7 Appendices

7.1 The following documents are to be published with this report and form part of the report:

- Appendix I: Hackney Carriage and Private Hire Licensing Policy 2025 - 2030

8 Background Papers

All relevant legislation as outlined at paragraph 1.1.2 of the draft Swale BC Hackney Carriage and Private Hire Licensing policy, most particularly The Town Police Clauses Act 1847 and Local Government (Miscellaneous Provisions) Act 1976

The DfT Statutory Taxi & Private Hire Vehicle Standards 2020
The DfT Best Practice Guidance 2023

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Swale Borough Council



**Hackney Carriage (Taxi) and Private Hire Licensing Policy
2025 - 2030**

Next Scheduled Review:

All enquiries relating to this document should be sent to:

Licensing
Swale Borough Council
Swale House
East Street
Sittingbourne
Kent
ME10 3 HT

licensing@swale.gov.uk

Compiled by: Johanna Thomas

Date:

Approved by:

Date:

Changes and Corrections

Any changes or corrections required should be notified in writing to:

Licensing Team
Swale Borough Council
Swale House
East Street
Sittingbourne
Kent
ME10 3HT

Or

taxis@swale.gov.uk

DRAFT

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Executive Summary

The Role of Licensing

The aim of local authority licensing of Hackney Carriage (Taxi) and Private Hire Vehicle (PHV) trades is to protect the public. Swale Borough Council is also aware that the public should have reasonable access to Hackney Carriage and PHV services because of the part they play in local transport provision. Licensing requirements which are unduly stringent will tend to unreasonably restrict the supply of Hackney Carriage and PHV services, by putting up the cost of operation or otherwise restricting entry to the trade.

Swale Borough Council recognises that too restrictive an approach can work against the public interest and can, indeed, have safety implications. For example, it is clearly important that somebody using a Hackney Carriage or PHV to go home alone late at night should be confident that the driver is “fit and proper” and that the vehicle is safe. However, on the other hand if the supply of Hackney Carriage or PHVs has been unduly constrained by onerous licensing conditions, then that person’s safety might be put at risk by having to wait on streets late at night for a Hackney Carriage or PHV to arrive; they might even be tempted to enter an unlicensed vehicle with an unlicensed driver illegally plying for hire.

Swale Borough Council, therefore, wants to be sure that every licensing requirement is in proportion to the risk it aims to address; or to put it another way, whether the cost of a requirement in terms of its effect on the availability of transport to the public is at least matched by the benefit to the public, for example through increased safety. This is not to propose that a detailed, quantitative, cost-benefit assessment should be made in each case; but it is to say that Swale Borough Council does look carefully at the costs – financial and otherwise – imposed by all of its licensing policies.

1 Introduction

1.1 Powers and Duties

1.1.1 This Statement of Licensing Policy is written pursuant to the powers conferred by the Town Police Clauses Act 1847 (as amended), and the Local Government (Miscellaneous Provisions) Act 1976 (as amended) which places on Swale Borough Council (the “Licensing Authority”) the duty to carry out its licensing functions as to hackney carriage and private hire vehicles and drivers.

1.1.2 In undertaking its licensing function, the Council will also have regard to other relevant legislation (and any legislation replacing or amending the same or any regulations made thereunder) including:

- a) Transport Act 1985
- b) Road Vehicles (Constructions and Use) Regulations 1986.
- c) Crime and Disorder Act 1998
- d) Environmental Protection Act 1990
- e) Disability Discrimination Act 1995
- f) Health Act 2006 and Smoke-free Regulations 2006/7
- g) Legislative and Regulatory Reform Act 2006
- h) Road Safety Act 2006 Road Traffic Acts
- i) Health & Safety (First Aid) Regulations 1981
- j) Immigration Act 2016
- k) Equalities Act 2010
- l) The Finance Act 2021
- m) The General Data Protection Regulations 2018
- n) The Deregulation Act 2015
- o) Human Rights Act 1998
- p) Road Traffic Acts
- q) The Police and Crime Act 2017
- r) The Taxis and Private Hire Vehicles (Safeguarding and Road Safety) Act 2022
- s) The Taxis and Private Hire Vehicles (Disabled Persons) Act 2022

1.2 Background to Policy

1.2.1 The Department of Transport (DfT) has national responsibility for hackney carriage and private hire legislation in England and Wales.

1.2.2 In 2006 the DfT produced a Best Practice Guidance to assist local authorities with the regulation of the hackney carriage and private hire trades. It was directed at local authorities “to decide for themselves the extent to which they wish to make use of it or adapt it to suit their own purposes”. There was recognition, within the document, that is for individual licensing authorities to reach their own decisions both on overall policies and on individual licensing matters, in the light of their own views of the relevant considerations.

1.2.3 In November 2023 the DfT’s Guidance was updated, and this policy revision takes the 2023 version into account.

1.2.4 In July 2020, the DfT issued Statutory Taxi and Private Hire Vehicle Standards to which all Licensing Authorities must have regard in carrying out their licensing function. Whilst the focus of these standards is on protecting children and vulnerable adults, they are intended to benefit all passengers; primarily through ensuring the fitness and propriety of applicants and licence holders. The national standards reflect the significant changes in the industry and lessons learned from experiences

in local areas since the Best Practice Guidance, and consequently replace relevant sections; where there is a conflict between the national standards and the Best Practice Guidance, the national standards take precedence.

1.2.5 In the light of this and in order for Swale Borough Council to maintain a modern, forward thinking licensing function by adopting this licensing policy recognition is given to both the needs of residents for safe, healthy, 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. The hackney carriage and private hire industry within the Council's area is comprehensive and provides its population with a good service. This 2025 revision seeks to build on the 2022 policy by:

- a) Adopting the DfT's 2023 Guidance where it is considered applicable and necessary.
- b) Supporting the council's declaration of a climate and ecological emergency and commitment to becoming a carbon neutral borough by 2030 by strengthening vehicle emission limits and by setting out when the taxi fleet will need to consist of wholly electric vehicles
- c) Supporting the council's strategic Air Quality Action Plan which identifies measures to target reductions in emissions from all vehicle fleets by emphasising and encouraging the switch to zero emission vehicles. This is important across the whole borough, but in particular, within the 6 declared Air Quality Management Areas.
- d) Improving the knowledge and calibre of licence holders through additional training requirements
- e) Continue to support the digitisation of the Council's services

1.2.6 This Hackney Carriage and Private Hire Vehicle Licensing policy is also intended to ensure that both the trade and the public have a document that fully explains the licensing procedures in a clear and transparent manner. The policy sets out what is considered to be best practice in terms of hackney carriage and private hire licensing. It does not seek to cover the whole range of possible licensing requirements. Instead it seeks to concentrate only on those issues that have caused difficulty in the past or that seem of particular significance.

1.2.7 The Council sees the licensing process as an integral part to its approach to achieving its strategic and corporate objectives which encompasses the visionary goals of:

- a) To enable our residents to live, work and enjoy their leisure time safely in our borough and to support community resilience
- b) Working with businesses and community organisations to work towards a sustainable economy which delivers for local people
- c) To provide a cleaner, healthier, more sustainable and enjoyable environment, and to prepare our borough for the challenges ahead
- d) Working within our resources to proactively engage with communities and outside bodies to deliver in a transparent and efficient way

1.2.8 The Council currently in 2025 licenses approximately 324 drivers. There are approximately 185 hackney carriage vehicles and approximately 70 private hire vehicles (including executive vehicles). There are 34 private hire operators.

1.2.9 Definitions of the various licences issued are:

Hackney Carriage – A vehicle licensed by the authority to ply for hire. It must have no more than 8 passenger seats. It may stand at ranks, be hailed on the street by the public or undertake pre-booked work.

Private Hire vehicle – A vehicle licensed by the authority to undertake pre-booked work. It must have no more than 8 passenger seats. It may not stand at ranks. Bookings must be made in advance via a private hire operator licensed by the same authority. It cannot ply for hire.

Restricted Private Hire vehicle – Private Hire vehicles with conditions applied restricting their use.

Limousine – Limousine means a luxury vehicle of high quality which may be driven by a chauffeur and with a partition between the driver and passenger compartment.

Private Hire Operator – A private hire operator licence is required to permit the taking of private hire bookings and the despatch of private hire vehicles. A licence can be issued to an individual or a company.

Dual Hackney Carriage/Private Hire Driver licence – The individual is licenced to drive both Swale-licensed hackney carriages and private hire vehicles.

Private Hire Driver licence – The individual is licenced to drive private hire vehicles only.

Restricted Private Hire Driver licence – The individual is licenced to drive restricted private hire vehicles only.

1.3 Objectives

1.3.1 Hackney carriages and private hire vehicles have a specific role to play in an integrated transport system. They are able to provide services in situations where other public transport is either not available (for example in rural areas, or outside “normal” hours of operation such as in the evenings or on Sundays), or for those with mobility difficulties.

1.3.2 In setting out its policy, Swale Borough Council seeks to promote the following:

- a) The protection of the health and safety of the public and of licensed drivers
- b) The prevention of crime and disorder and protection of customers and drivers from being the victims of crime
- c) 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
- d) Vehicle safety and the provision of assistance with public access to an efficient and effective public transport service
- e) The safeguarding of children, young and vulnerable persons
- f) Encouraging environmental sustainability

- 1.3.3** The aim of the licensing process in this context is to regulate the hackney carriage and private hire trade in order to promote the above objectives. It is the Licensing Authority's wish to facilitate well-run and responsible businesses which display sensitivity to the wishes and needs of the general public.
- 1.3.4** 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.
- 1.3.5** This policy helps to promote efficient and effective approaches to regulatory inspection and enforcement, which improve regulatory outcomes without imposing unnecessary burdens.

This is also in accordance with the Regulator's Compliance Code.

However, despite the existence of this policy, each application or enforcement measure shall be considered on its own merits. 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 properly reasoned, based on material evidence and documented giving clear and compelling reasons for doing so.

- 1.3.6** The Council acknowledges that the current fleet of hackney carriages and private hire vehicles and drivers generally set a very high standard of appearance and performance of which the Council is proud. Whilst the number of occasions where suspension, revocation or prosecution are very rare, this Policy seeks to reinforce the existing high standards for all new licence holders joining the trade in Swale and emphasise the full range of enforcement options available should they be needed.

1.4 Consultation and Implementation

- 1.4.1** In drawing up this policy, Swale Borough Council has consulted with the following

- a) Representatives of the hackney carriage and private hire trade
- b) Kent Police
- c) Kent County Council Traffic & Road Safety
- d) Kent County Council Public Transport
- e) Driver and Vehicle Standards Agency (DVSA)
- f) Disabled Persons Transport Advisory Committee
- g) Local businesses and their representatives
- h) Local Residents and their representatives
- i) Swale Town Centre management
- j) Ward Councillors, Town and Parish Councils
- k) Community Safety Unit
- l) The National Private Hire Association
- m) The National Taxi Association
- n) Public Health Kent
- o) Chamber of Commerce
- p) Citizens Advice
- q) Age UK
- r) Swale Council Environmental Health Department
- s) Swale Council Engineers

- 1.4.2** This policy will take effect on 15th September 2025 after it has been fully consulted upon and received formal approval from the council's Licensing Committee and Policy and Resources Committee. It will remain in existence for a period of five years, during which time it shall be kept under review and revised as appropriate or after any significant legislative change.
- 1.4.3** Upon implementation of this policy, the Authority expects licence-holders to comply with its terms immediately.
- 1.4.4** Any substantial amendment to this policy will only be implemented after further consultation with the trade and the public. All substantial amendments must be authorised by the relevant committee of the Council.
- 1.4.5** For the purpose of this section, any substantial amendment is defined as one that:
- a) will have a significant financial effect on licence holders, or
 - b) will have a significant procedural effect on licence holders, or
 - c) may not be perceived by the trade or the public to be consistent with the published objectives in Section 1.3 of this policy.
- 1.4.6** Any minor amendment to this policy may be authorised by the Community Services Manager in conjunction with the chair of the Licensing Committee.
- 1.4.7** The Policy and associated documentation are available for inspection on the Council's website and a hard copy can be viewed at Swale Borough Council Offices, Swale House, East Street, Sittingbourne, Kent, ME10 3HT

1.5 Data Protection

- 1.5.1** In holding and exchanging information with other bodies/departments during the exercise of its functions under this Policy, officers are required to act in accordance with the provisions of the Acts and the Data Protection principles as set out in the General Data Protection Regulation, Data Protection Acts, and any duties under the Freedom of Information Act 2000.

1.6 Equality and Diversity & Human Rights

- 1.6.1** Swale Council is committed to ensuring equality in employment and service delivery. To achieve this standard the authority is aware of its duties and obligations under the following legislation amongst others:
- a) Equality Act 2010
 - b) Human Rights Act 1998
- 1.6.2** Applicants and licensees should be aware of their obligations and the avoidance of unlawful discrimination under the Equality Act 2010 and the characteristics protect by the legislation which are:
- a) Age
 - b) Disability
 - c) Gender reassignment
 - d) Marriage and civil partnership
 - e) Pregnancy and maternity
 - f) Race
 - g) Religion
 - h) Sex

i) Sexual Orientation

- 1.6.3** It is expected that responsible licensees will be sensitive to the needs of their varied customer base and be prepared to make reasonable adjustment to accommodate those needs.
- 1.6.4** Licensed drivers are under a duty to carry guide, hearing and other prescribed assistance dogs in their vehicles and passengers with disabilities without additional charge. Drivers who have a medical condition that is aggravated by exposure to dogs may apply for an exemption from the duty on medical grounds. A medical certificate must be provided at the drivers' expense, from the drivers own GP stating the details of their medical condition.

1.7 Right to live and work in the UK

- 1.7.1** Under the Immigration Act 2016 all applicants for hackney carriage and private hire driver licences and private hire operator licences are required to prove that they have a right to live and work in the UK before being considered for a licence. A list of suitable documents that are required is available at:
<https://www.gov.uk/government/publications/licensing-authority-guide-to-right-to-work-checks>
- 1.7.2** A licence will not be granted until the applicant is able to prove that they have the right to live and work in the UK. If an applicant has only limited leave to remain then any licence will only be issued for this period. A time limited licence may be granted if evidence of an in-time application to extend a right to remain to the UK Visas and Immigration is presented.

2. Vehicles**2.1 Limitation of Numbers**

- 2.1.1** 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.
- 2.1.2** Many local licensing authorities do not impose any quantity restrictions on hackney vehicles and the DfT regards this as best practice. Where restrictions are imposed, licensing authorities are urged to regularly reconsider the matter, taking into account whether the restrictions should continue at all. It is suggested that the matter should be approached in terms of the interests of those who use the services of such vehicles. The over-riding principles are the benefit to be achieved for them by the continuation of controls and how they might benefit if the controls were removed. Evidence should be sought as to whether removal of the controls would result in a clear and unambiguous deterioration in the amount or quality of service provision.

- 2.1.3 Where quantity restrictions are imposed, vehicle licence plates command a premium, often of thousands of pounds. This tends to suggest that there are people who want to enter the market and provide a service to the public, but who are being prevented from doing so by the quantity restrictions.
- 2.1.4 If the local authority were to take the view that a quantity restriction can be justified in principle, the Guidance advises that the level at which the limit should be set is addressed by means of a survey.
- 2.1.5 The Council does not intend to set a limit on the number of hackney carriages which it licences, which is in keeping with the DfT guidance.
- 2.1.6 In the event of this changing and the Council commissioning an unmet demand survey, the cost would likely need to be funded by an increase in licence fees
- 2.1.7 No powers exist for licensing authorities to limit the number of private hire vehicles which they license.

2.2 Specifications and Conditions

- 2.2.1 Licensing Authorities have a wide range of discretion over the types of vehicle that they can licence as hackney carriages or private hire vehicles.
- 2.2.2 The Best Practice Guidance suggests that local Licensing Authorities should adopt the principle of specifying as many different types of vehicle as possible. Authorities are encouraged to leave it open to the trade to put forward vehicles of their own choice which can be shown to meet basic criteria. In that way, emerging new designs for vehicles can be readily taken into account
- 2.2.3 The Council is empowered to impose such conditions, as it considers reasonably necessary, in relation to the grant of a hackney carriage or private hire vehicle licences. 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.
- 2.2.4 All vehicles must have at least four doors, being two each side of the vehicle, a rear door not being accepted as one of the four doors. Vehicles with exits sited over petrol tanks will not be permitted. Doors should open and close to 90 degrees to the body of the vehicle, except in the case of sliding doors. For vehicles with 8 seats and sliding doors providing access to rear seats – one sliding door is acceptable on the near side of the vehicle subject to alternative emergency escape measures being provided.
- 2.2.5 All vehicles will be subjected to a vehicle test and Certificate of Compliance every year. After five years old then the vehicle will require an additional Certificate of Compliance at six months.

APPENDIX A sets out the minimum standards of vehicle specification, which apply in respect of all licensed vehicle applications.

2.3 Accessibility

- 2.3.1** Swale Borough Council is committed to social inclusion and ensuring a wide range of opportunities are available to disabled residents to enjoy a high quality of life. 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. Accessibility is an important consideration in respect of vehicles licensed as hackney carriages. The Council therefore maintains a list of designated wheelchair accessible vehicles on the Council's website in accordance with section 167 of the Equality Act 2010.
- 2.3.2** This section of the policy also takes into account the 2007 report published by the European Conference of Ministers of Transport and the International Road Transport Union: It recognised that it is impossible to provide for 100% of wheelchair users without reducing the operational viability of the vehicle for the taxi operator and other passengers. There will be a small proportion of people who, because of the size of their wheelchair or the nature of their disability are unable to access taxis or indeed other forms of mainstream public transport. They will continue to need specialist door-to-door services.
- 2.3.3** Currently, the council are satisfied that there is an adequate number of Wheelchair Accessible Vehicles (WAV's) within the borough to provide for the needs of users, but should the supply of WAV's diminish it will consider what action to take to remedy this.

2.4 Environmental Considerations

- 2.4.1** The Best Practice Guidance asks licensing authorities to consider how far their vehicle licensing policies can and should support any local environmental policies that they have adopted, bearing in mind the need to ensure that the benefits outweigh costs (in whatever form). They suggest that authorities may, for example, wish to consider setting vehicle emissions standards, perhaps by promoting cleaner fuels.
- 2.4.2** In June 2019, the Council declared a climate and ecological emergency and committed to becoming a carbon neutral borough by 2030. In March 2025 the Environment Committee adopted a revised the Borough wide net-zero target to 2045. The Council's Electric Vehicle Strategy (2022-2030) anticipates that the review of the taxi licensing policy will provide an opportunity to include mechanisms to encourage the uptake of ULEV taxis in the borough, in consultation with operators." In working towards achieving these targets and goals, the council must consider the environmental impacts arising from its licensed taxis and private hire vehicles and seek to reduce the resultant carbon footprints. This section, and the associated vehicle criteria, will therefore be kept under review.
- 2.4.3** The vast majority of vehicles, other than Wheelchair Accessible Vehicles and limousines are likely to meet Euro 6 standard (as a minimum) however, to ensure that this is achieved particular attention should be paid to the age criteria and emissions standards as shown in **Appendix A**.

2.4.4 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. Swale Borough Council has implemented anti-idling legislation and as such can issue fixed penalty notices for offences under the Road Traffic (Vehicle Emissions) (Fixed Penalty) (England) Regulations 2002. In order to comply with these regulations, drivers are advised to switch off their engine when the vehicle is stationary to avoid any unnecessary vehicle idling, especially in the vicinity of sensitive areas such as schools, hospitals, train stations and residential areas, except in the following circumstances:

- a) where the licensed vehicle is stationary owing to the necessities of traffic – e.g., when vehicles are queuing at traffic signals.
- b) where an engine is being run so that a defect can be traced and rectified – e.g., when a defective vehicle is being attended to by a breakdown/recovery agent.

2.4.5 If a vehicle is fitted with a stop/start engine technology, this must not be disabled at any time when the vehicle is operating as a taxi or private hire vehicle.

2.5 Signage

2.5.1 Within the Borough of Swale, both hackney carriages and private hire vehicles are required to display licence plates that are permanently fixed externally on the rear of the vehicle with Hackney plates being white, private hire being yellow and restricted private hire plates being green. This is a key feature in helping to identify vehicles that are properly licensed. The plate details Swale Borough Council as the Licensing Authority, the vehicle make, colour and registration mark, the number of passengers the vehicle can carry and the expiry date of the licence.

2.5.2 Details of the required signage is contained in **Appendix A**.

2.5.3 No vehicle will be granted a licence by Swale Borough Council if it is licensed by another authority. This is because a vehicle is unlikely to comply with the requirements of two separate licensing authorities, could cause confusion to members of the public and impede the Council's ability to effectively regulate.

2.5.4 A private hire vehicle can be licenced by Swale Borough Council as private hire or as restricted private hire, this Council does not permit the issue of two licences for one vehicle. This is to avoid confusion and non-compliance with the conditions of a restricted private hire vehicle licence and a restricted private hire drivers licence.

2.6 Security and Closed Circuit Television (CCTV) and Protective Screens

2.6.1 The hackney carriage and private hire trade provide 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. Across the UK there is evidence that attacks and incidents involving taxi drivers are sadly becoming more common. The main areas of concern are:

- a) Threats and assaults on drivers

- b) Allegations of drivers assaulting passengers
- c) Customers leaving vehicles without paying
- d) Allegations of theft associated with licensed vehicles

2.6.2 CCTV cameras can be a valuable deterrent for such incidents and, as well as protecting the driver from unjustified complaints, can protect the travelling public similarly by:

- a) Helping to prevent crime
- b) Identifying the perpetrators of crime
- c) Reducing the fear of crime
- d) Increasing the safety of drivers and passengers

2.6.3 The DfT Statutory Taxi and Private Hire Vehicle Standards recommends that local authorities should consult to identify whether there are any local circumstances which would indicate that the mandatory installation of CCTV in vehicles would have either a positive or adverse net effect on the safety of taxi and private hire vehicle users, including children or vulnerable adults, and taking into account potential privacy issues. The DfT also state that the imposition of a blanket requirement to attach CCTV as a condition to a licence is likely to give rise to concerns about the proportionality of such an approach and if imposed must require an appropriately strong justification and kept under review.

2.6.4 In the light of the above the Council permits the installation of a CCTV camera system in all hackney carriage and private hire vehicles it licences but does not at this stage intend to make it a mandatory condition of licensing.

2.6.5 If CCTV facilities are installed in a licensed vehicle, the installation and operation of all CCTV systems must comply with the Surveillance Camera Commissioner's Code of Practice and the Information Commissioner's Code of Practice for Surveillance Cameras and Personal Information (or subsequent amendments or replacements). All equipment must comply with any legislative requirements in response of Motor Vehicle Construction and Use Regulations.

2.6.6 In order to offer additional personal protection, drivers may wish to install a protective screen/shield around the driving seat. There will be no objection to the installation of such screens/shields provided that, to the satisfaction of the Council, they:

- a) Are of a make, type and design approved by authorised officers of the Council
- b) Are not changed in any way from the original design and are free of damage
- c) Remain clear, clean and transparent
- d) Are free of scratches, clouding or stickers which could impede the drivers' or passengers' visibility
- e) Do not impede entry and egress or present a trip or other hazard to passengers
- f) Are installed and maintained in accordance with manufacturer's specifications and recommendations
- g) Do not impede the ability for clear, two way communication between the driver and any passengers

2.7 Stretched Limousines

2.7.1 Licensing authorities are sometimes asked to licence stretched limousines as private hire vehicles. The Guidance suggests that such requests should be approached on

the basis that these vehicles have a legitimate role to play in the private hire trade, meeting a public demand.

2.7.2 PHV licence applications for limousines which meet the relevant statutory criteria and those specified in Appendix A will therefore be duly considered on their merits

2.7.3 All licensed limousines must adhere to the additional applicable conditions in **APPENDIX B.**

2.8 Funeral Vehicles

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

2.9 Wedding Vehicles

2.9.1 A vehicle does not need to be licensed while it is being used in connection with a wedding.

2.9.2 Written certification from the Council of the relevant exemption claimed is not currently required and it is not proposed to change this arrangement.

2.10 Courtesy Cars

2.10.1 All vehicles with less than 8 passenger seats or fewer that carry 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, accordingly be licensed with the Local Authority, as should their Operator.

2.10.2 Those operating 'courtesy cars', e.g. for transporting customers to and from hotels, night-clubs etc. should have an operator's licence and the vehicles and driver must be appropriately licensed.

2.11 Ambulances and Other Patient Transport

2.11.1 All ambulances registered with the British Ambulance Association and providing Ambulance Transport Services to or from a place of Medical Treatment, to a sick or injured person, in a vehicle which is specially designed for the purpose of carrying sick or injured persons. will be exempt from private hire licensing.

2.11.2 Other patient transport that is registered with the British Ambulance Association and providing Ambulance Transport Services to or from a place of Medical Treatment, to a sick or injured person, in a vehicle which is specially designed for the purpose of carrying sick or injured persons. will be exempt from private hire licensing. These services include:

- a) Primary Care Trusts
- b) Voluntary services

2.11.3 All other ambulance or patient transport services that are not registered with the British Ambulance Association may be required to conform to private hire licensing

requirements. The Council strongly recommends that anyone wishing to provide this type of service contacts the licensing authority for each case to be considered on its merits.

2.12 Voluntary Sector Transport

2.12.1 The Council will assess each individual organisation on its own merits to determine whether or not it will require licensing as a private hire business. Whilst it is clear that the organisation is providing a service, it is less clear that such provision can be defined as operating a private hire business.

2.12.2 The Council will, however, seek to enforce against unlicensed businesses where it can be proven that the business obtains a benefit and the Council considers that private hire vehicle licensing is necessary.

2.13 Livery

2.13.1 Swale Borough Council requires that Taxis are white with a 2inch Kelly Green stripe. Private Hire Vehicles may be any colour except white. It is felt that the visual distinction between a Hackney Carriage and a Private Hire vehicle is important for the public to distinguish between those vehicles that are for immediate hire and those that are required to be pre-booked.

2.14 Application Procedure

2.14.1 The application procedures for hackney carriage or private hire vehicle licence are not prescribed in law. The Council requires that an application must be made on a specified application form in accordance with application procedures set out in **APPENDIX C**.

2.14.2 Swale Borough Council has introduced online forms to facilitate applications. The Authority is committed to keeping the cost of providing the licensing service down and online forms assist with this aim. We are happy to accept scanned accompanying documents or photograph images with online applications however this authority reserves the right to require the original documentation to be presented to the Licensing Authority.

2.15 Consideration of Applications

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

3. Drivers

3.1 Licences

3.1.1 In order to drive a hackney carriage or private hire vehicle, the driver must also be licensed by the same Council.

3.1.2 Swale issue Dual Hackney Carriage and Private Hire Driver licences. This enables the holder to drive Swale-licensed hackney carriages and/or private hire vehicles.

- 3.1.3** A Restricted Private Hire Driver's licence may also be issued for the purpose of carrying out client transport services operated under contracted to a Local Authority, or other limited and specified work, only in a Swale-licensed restricted private hire vehicle. Restricted private hire licences are, in effect, private hire licences that are subject to additional conditions restricting the type of work that they can carry out. Those applying for a restricted private hire licence will therefore, unless otherwise specified, be subject to the same requirements and provisions that apply to other private hire applicants and licence holders.
- 3.1.4** Conditions cannot be imposed on Hackney Carriage drivers' licences but where a licence is issued for a dual Hackney Carriage and Private Hire licence the conditions set out in **Appendix F** apply. Additional conditions for Restricted Private Hire Drivers are set out in Appendix
- 3.1.5** The statutory and practical criteria and qualifications for a private hire driver are broadly identical to those for a hackney carriage driver. The sections below, therefore, apply equally to private hire and hackney carriage drivers.
- 3.1.6** The licensing authority will issue a licence to an applicant provided the applicant is assessed as fit and proper. In determining whether a driver is fit and proper the Authority will consider amongst other things; the applicant's relevant skills, knowledge, experience, qualifications, medical fitness, criminal records, offences and prosecutions and previous history as a licence holder. The offence, conviction, prosecution or cautions which the Council consider to be relevant offences when considering an application for either the grant or renewal of a licence are shown in **APPENDIX D**. The licensing authority will consider each case on its merits.
- 3.1.7** In line with recommendations contained in the DfT Statutory Taxi and Private Hire Vehicle Standards all applicants are expected to be suitably proficient in the English language, in terms of oral, reading and written skills.

3.2 Age and Experience

- 3.2.1** A licence to drive a hackney carriage or private hire vehicle will not be refused solely on the ground of age provided that a driver can demonstrate that they are medically fit to hold such a licence. If a driver wishes to continue to be licensed once they reach 65 years of age the licensing authority shall require that they obtain a medical certificate at yearly intervals.
- 3.2.2** A licence will not be granted to anyone that has not held a valid full DVLA or EEA driving licence, for a period of at least 12 months immediately prior to the application.
- 3.2.3** An applicant will also be asked to agree to the Council checking with the DVLA for a driver licence history. This policy requirement is to ensure appropriate regulation of any penalty points by the courts in relation to road traffic offences. Drivers who are under 21 years of age are generally expected to have no DVLA penalty points.

3.3 Driver Knowledge Tests

- 3.3.1** Drivers clearly need a good working knowledge of the area for which they are licensed. The DfT recognises that most authorities require prospective drivers to pass a test as to their knowledge of the local geography (known locally as the Knowledge

Test) as a condition of first grant of a licence. This test will also identify the driver's knowledge of the Highway Code and the Council's Licensing Policy as well as basic knowledge of hackney carriage and private hire law and safeguarding. The procedures in relation to the above are set out in **APPENDIX G**.

- 3.3.2** Hackney Carriage drivers require a greater knowledge than Private Hire drivers because their vehicles can be hired immediately at ranks or on the street. The DfT 2023 Guidance suggests that applicants for a private hire only licence should not have to undertake a topographical test. However, this causes the Council some concern. Whilst the Council recognises that as Private Hire vehicles must be pre-booked, therefore affording a Private Hire driver the opportunity to research the required route, it will still be necessary for any prospective driver to pass the Street Knowledge Test albeit with a lower pass mark.
- 3.3.3** Those applicants applying for Restricted Private Hire licence who will undertake client transport services operated under contract to a Local Authority or other limited and specified work will not be required to undertake the topographical part of the Street Knowledge Test but must pass all other sections of the test.
- 3.3.4** There are no specimen tests to view or study. This is because we want our licensed drivers to have genuine and thorough knowledge of the subject areas being tested and we do not consider this can be properly achieved or gauged where applicants are able to memorise a select number of questions and answers. However, **APPENDIX E** gives an overview of the content of the test to assist applicants in preparing for the test.
- 3.3.5** Update training maybe required during the life of the licence.

3.4 Driving Proficiency and Qualifications

- 3.4.1** Swale Borough Council believes that as a profession, hackney carriage and private hire drivers have a special responsibility for the safe transportation of fare paying passengers.
- 3.4.2** An additional driving test with a company authorised by the Council should be taken by any existing driver, where in the opinion of either an authorised officer of the Council, the Licensing Sub-Committee or the police, there is doubt as to the driver's technical competency.
- 3.4.3** The Council would encourage drivers to obtain a professional qualification, for example an NVQ or BTEC in transporting passengers by taxi, which would be considered a credit to the taxi trade in Swale.
- 3.4.4** Similarly the Council would encourage drivers to undergo practical passenger assistance training with particular regard to those with special physical needs.

3.5 Medical Examination

- 3.5.1** The DfT recognises that it is clearly good practice for medical checks as a condition for the initial grant of a licence and thereafter for each renewal. Adopting 'Group 2' medical standards as applied by DVLA to the licensing of lorry and bus drivers and applying C1 standards to hackney carriage and private hire drivers with insulin treated diabetes is considered to be best practice.

- 3.5.2** Applicants are required to complete a medical examination for the initial grant of a licence and every three years thereafter. A yearly medical will be required for those who are aged over 65 and may be required for those with certain medical conditions
- 3.5.3** In the light of the above, medical examinations by the driver's own GP or someone with access to his medical records is required before any licence can be granted or renewed. A request form for a medical examination will be supplied by the Council. This report must be submitted at the time of applying for a driver's licence. The applicant will be responsible for payment of the appropriate fee.
- 3.5.4** Licence holders must advise the Council immediately of any deterioration in their health that may affect their driving capabilities.
- 3.5.5** Where there is any doubt as to the medical fitness of either an applicant or an existing driver, the Council may require the applicant or existing driver to undergo further medical examination by a doctor appointed by the Council, at the applicant's or existing driver's own expense.
- 3.5.6** Where there remains any doubt about the fitness of any applicant the Head of Housing and Community Services/Community Services Manager will review the medical evidence in consultation with the Council's Occupational Health Advisor and make a final decision in the light of the medical evidence available.

3.6 Disclosure and Barring Service Criminal Records Checks

- 3.6.1** A Disclosure and Barring Service (DBS) criminal records check on a driver is an important safety measure. The Rehabilitation of Offenders Act 1974 sets out the period after which an offence or conviction is regarded as 'spent' and which would not normally necessitate disclosure of that offence, conviction or caution. However, in 2002 the Act was amended so as to exclude hackney carriage and private hire drivers from the effects of the 1974 Act. Applicants for licences are, therefore, required to disclose all offences, convictions, prosecutions and police cautions, including those that would previously been regarded as 'spent' under the 1974 Act. This is called an 'enhanced' DBS check. An enhanced DBS check allows councils access to intelligence on alleged sexual assaults, rapes, terrorist activity, drug dealing and organised crime.
- 3.6.2** It is the Council's view that the public expects all reasonable precautions to be taken when determining whether to grant a licence to drive a hackney carriage or private hire. The DfT National Standards recommend that an enhanced DBS check is carried out via the DBS Update Service every six months.
- 3.6.3** All new applicants are to provide a completed Enhanced DBS Disclosure Application when they have successfully passed the Street Knowledge Test and register for the DBS Update Service upon receipt of their Certificate, which will be sent to them by the DBS and give the Council ongoing permission and the information required to check the status of their certificate every six months or otherwise as considered appropriate.
- 3.6.4** All existing drivers who are not already registered with the DBS Update Service must, upon application for the renewal of their drivers' licence provide a current (less than 3 months old at the date of application) Enhanced DBS Disclosure Certificate, register for the DBS Update Service and give the Council ongoing permission and the

information required to check the status of their certificate every six months or otherwise as considered necessary.

3.7 Tax checks

- 3.7.1** The Finance Act 2021, Schedule 33 (Licensing Authorities: Tax Information) Regulation 2022 has introduced new legal requirements for local authorities regarding tax checks. From 4 April 2022, licensing authorities will need to obtain confirmation from HMRC that applicants for taxi and private hire driver licences and private hire operators have completed a tax check. The tax check is to confirm that someone is appropriately registered for tax when they should be.
- 3.7.2** Under the terms of the Finance Act 2021 the Council will not be able to process an application without this information being provided and any driver or private operator who fails to do so will become unlicensed.

3.8 Relevance of Offences, Convictions, Prosecutions and Cautions

- 3.8.1** The DfT Statutory Standards recommend that in considering an individual's criminal record authorities be encouraged to consider each case on its merits, but to take a particularly cautious view of any offences involving violence, dishonesty, drugs/alcohol and sexual offences. Authorities are recommended to have a clear policy for the consideration of criminal records. For example, the number of years they will require to have elapsed since the commission of particular kinds of offences before they will grant a licence.
- 3.8.2** 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, offences, convictions, prosecutions, and fixed penalty notices whether spent or unspent, 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 current or spent offences, convictions, prosecutions are capable of having significant relevance as to whether the applicant is a fit and proper person to hold a licence. Where necessary the application will be referred to the Community Services Manager or the Licensing Sub-Committee for consideration as to the outcome of an application.
- 3.8.3** 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.
- 3.8.4** In relation to previous offences, convictions and prosecutions the Council will have regard to the following:
- a) Whether the offences, convictions and prosecutions are technically spent or unspent;
 - b) The class of the offences;
 - c) The age of the offences;
 - d) The apparent seriousness, as gauged by the penalty.

Guidance in relation to specific offences is given in **APPENDIX D**. In general terms the more recent, serious and relevant to public safety the offence is, the less likely that an application will be granted.

- 3.8.5** A failure by a licence holder to disclose a matter referred to in Appendix D that the council is subsequently advised of may be seen as behaviour that questions honesty and therefore the suitability of the licence holder regardless of the outcome of the initial allegation.

3.9 Grant and Renewal of Licences

- 3.9.1** Drivers' licences are normally granted for a period of three years. However, they may be issued for a lesser period of time if in the opinion of a medical practitioner who conducted the medical examination advised it would be more appropriate to do so. Requests for the issue of an annual licence will also be considered from drivers once they reach 65 years of age.
- 3.9.2** Council officers will send a reminder letter to the current taxi driver, three months before the existing licence expires in order to assist applicants in their prompt submission of re-licensing applications.
- 3.9.3** From the date of receipt of a satisfactory and complete licence application a minimum of one week is required before the appropriate licence can be issued.
- 3.9.4** 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 timely return of documents is the responsibility of the driver.
- 3.9.5** The licence fees payable are subject to periodic review and will be published together with other Council licensing fees
- 3.9.6** A licence will normally remain in force until expired, revoked or suspended. If a licence holder wishes to surrender their licence they should contact the Licensing Authority at the earliest opportunity as there will be circumstances where this may not be possible, for example, the Licensing Authority will not accept a surrender of the licence where concerns have been raised which could lead to enforcement action.

3.10 Conditions of Licence

- 3.10.1** The Authority is not permitted to attach conditions to a hackney carriage driver's licence. It is, however, empowered to attach such conditions to a private hire driver's licence and operator Licence as are considered necessary.
- 3.10.2** However, it could be argued that many of the requirements prescribed within the Hackney bye-laws are effectively hackney carriage driver's licence conditions which are binding on drivers. Swale Borough Council's bye-laws were, however, enacted many years ago and do not therefore impose controls over many aspects of a driver's conduct when operating a hackney carriage vehicle and therefore separate from this policy.

3.11 Code of Good Conduct

- 3.11.1** Adopting a Code of Good Conduct for hackney carriage and private hire drivers serves to promote the Council's licensing objectives set out in Paragraph 1.3.2 above.
- 3.11.2** The Licensing Authority considers that to assist both drivers and the public, it would be useful to set down the standards which must be adopted in maintaining a safe professional and efficient approach to the transport of members of the public. It is considered that drivers must be aware of the law and minimum standards of behaviour, should adopt safe and non-aggressive driving techniques, and set a good example to other road users. The standards expected of licensed drivers are set out in the Code of Good Conduct, included in this policy document at **APPENDIX H**
- 3.11.3** Failure to comply with any aspect of the Code of Good Conduct will result in enforcement action. The Code of Conduct is an indicator which officers will use to help decide upon subsequent enforcement action. This may result in warnings or penalty points being given by officers. Repeated breaches following such warnings or penalty points may lead to more serious consequences including, if necessary, non-renewal, suspension or revocation of licences.

3.12 Public Safeguarding and Child Sexual Exploitation

- 3.12.1** The overriding consideration for the Council in its determination of applications is the promotion of the licensing objectives detailed within this policy, in particular the protection of public safety, particularly young people and vulnerable adults
- 3.12.2** Child Sexual Exploitation (CSE) is a form of child abuse. It can involve sexual abuse, physical abuse and emotional abuse of children by adults.
- 3.12.3** Licensed drivers, proprietors and operators provide a public service and have a duty of care to all passengers. They also have a moral and social responsibility to report concerns about someone who is vulnerable.
- 3.12.4** Should a licenced driver, proprietor or operator have any concern about the vulnerability of a child or adult, they should contact the safeguarding officer of Swale BC or call Crime Stoppers 0800 555 111
- 3.12.5** Swale Borough Council requires all licensed drivers, proprietors and operators to undertake child and adult safeguarding awareness training (provided by the Council). Existing drivers will undergo the training at the time of renewal of their badges, or earlier if requested by Swale Borough Council.
- 3.12.6** All new drivers will undergo the training at the time of the Street Knowledge Test.
- 3.12.7** The Council will provide suitable sessions for licensed drivers, proprietors and operators to attend in order to receive the awareness training. The costs of this training will be met by the Council.

3.13 Disability Training

- 3.13.1** The Dft 2023 Guidance states that drivers should be trained in disability awareness and/or have their knowledge and skills assessed. Drivers should be encouraged,

through targeted and general communications, to uphold the highest standards of customer service.

- 3.13.2** Swale will therefore require that new applicants and existing drivers undertake training provided by an external company to learn or refresh skills which will include a module on drivers' responsibilities to passengers with disabilities.

4. Private Hire Operators

- 4.1.1** The objective of licensing Private Hire Vehicle Operators is, again, the safety of the public, who will be using operator premises, vehicles and drivers arranged through them. The Council will grant a private hire operator licence provided the Council is satisfied that the applicant is a fit and proper person to hold such a licence.
- 4.1.2** 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. 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.
- 4.1.3** A private hire vehicle may only be despatched to a customer by a private hire operator who holds a private hire operator's licence. Such a licence permits the operator to make provision for the invitation or acceptance of bookings for a private hire vehicle.
- 4.1.4** In order for an operator to prove that they are fit and proper they must provide evidence that they:
- a) are of good repute;
 - b) have adequate arrangements for monitoring drivers, vehicles and the keeping of records;
 - c) are capable of ensuring that both themselves and their staff/drivers obey all the rules.
- 4.1.5** All applicants for initial grant of a licence should allow at least four weeks before the licence is required to enable the local authority to undertake the necessary vetting procedures as detailed in this document.
- 4.1.6** Planning consent may be required and all applicants must ensure that they obtain all the correct and necessary permissions before trading.
- 4.1.7** Any application for the renewal of a licence which is not made before the expiry of the previous licence will be treated as an application for a new licence.
- 4.1.8** Applications will only be acceptable if they include an application form completed in its entirety and signed by the applicant along with all the information prescribed.
- 4.1.9** Private hire operators, that are not licensed drivers, cannot be required to produce an enhanced DBS disclosure. The national standards recommend however that licensing authorities should request a basic disclosure from the DBS and that subsequent checks are undertaken annually.
- 4.2 Criminal Record Checks**
- 4.2.1** Private Hire Vehicle operators are not exempted from the Rehabilitation of Offenders Act 1974. However, Private hire operators' that are not licensed drivers, cannot be required to produce an enhanced DBS disclosure. A Basic Disclosure from the DBS or Scottish Disclosure, or a certificate of good conduct from the relevant embassy for

overseas applicants, is however, considered appropriate in promoting the objective of public safety.

- 4.2.2** Before an application for a private hire operators' licence will be considered, the applicant must provide a current (less than one months old) Basic DBS or Scottish Disclosure of Criminal Convictions or a Certificate of Good Conduct from the relevant embassy in the case of an overseas applicant. Applicants that hold a current Drivers Licence with the Council will be exempt from this requirement.
- 4.2.3** Prior to consideration of any new application, overseas applicants who have lived in the United Kingdom for a continuous period of less than five years are required to provide a certificate of good conduct from their previous country or countries of residence (within the previous five years) in addition to a Basic Disclosure Certificate. A certificate of good conduct authenticated by the relevant embassy will satisfy this requirement.
- 4.2.4** A reference covering, for example, the applicant's financial records and/or business history could also be considered appropriate as well as the requirements outlined above in some instances.

4.3 Conditions

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

4.4 Insurance

- 4.4.1** The conditions applicable to Private Hire Operator's Licences as detailed in **APPENDIX I** require that the operator produces an appropriate certificate of motor insurance which covers every private hire vehicle they operate and public liability insurance for the premises to be licensed.

4.5 Licence Duration

- 4.5.1** The 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. The Council will, therefore, issue a successful applicant for a Private Hire Operator's Licence with a five-year licence from the date of grant
- 4.5.2** Holders of existing Private Hire Operator's Licences will be reminded, three months preceding their expiry, when their licences are due to be renewed. The timely return of documents is the responsibility of the operator.

4.6 Address from which an Operator may operate

- 4.6.1** Upon grant of an operator's licence the Council will specify the address from which the operator may operate. The operator must notify the Council in writing of any change of address during the period of the licence, whether this is a home address or the operating address, within seven days of such a change taking place.
- 4.6.1** The Council will not grant an operator's licence for an operator with an operating base that is outside the Council's area. This is to ensure that proper regulation and enforcement measures may be taken by the Authority and is not a restraint of trade.

4.7 Gaming Machines

- 4.7.1** Operators that provide a waiting facility for members of the public and/or drivers should be aware that they cannot make gaming machines available for use. This action would be a criminal offence under the Gambling Act 2005.

4.8 Sub-contracting

- 4.8.1** Section 55A of the Local Government (Miscellaneous Provisions) Act 1976, inserted by the Deregulation Act 2015, permits operators licensed by the Council to sub-contract a private hire booking to another operator licensed by the Council. It is the responsibility of the private hire operator to ensure sub-contracting is permitted under the terms of any contracted work they have entered into (for example Kent County Council client transport services contracts)

5. Fares and Fees

5.1 Fares

- 5.1.1** From April 2026 fare rates to be automatically increased biannually, subject to the required statutory consultation. The increase is based on the National Rail fare increase for the current year and will not be cumulative. This approach provides certainty to the taxi trade that there will be an increase to the tariff and also consistency for the travelling public that the fare increase will be in line with the National Rail increase which is based on CPI other than when government has deemed that a differing increase is appropriate. The fares will not normally be reviewed more than biannually unless there are exceptional circumstances which would justify a further increase, for example a particularly sharp increase in petrol/diesel prices.
- 5.1.2** Hackney Carriage Fares, set by the Council, are a maximum and can be negotiated downwards by the hirer. Fares can be negotiated prior to the commencement of the journey in both private hire vehicles and hackney carriages.
- 5.1.3** 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, Swale Council will operate a simple fare tariff that must be displayed in all hackney carriages- Details of the current tariff are available on the Council website: <https://swale.gov.uk/business-licensing-and-procurement/taxi-licensing/charging-a-fare>
- 5.1.4** In reviewing the fare tariff the Council will follow the appropriate procedures in the Local Government (Miscellaneous Provisions) Act 1976.
- 5.1.5** These regulations in relation to fares do not apply to private hire vehicles.
- 5.1.6** 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.
- 5.1.7** A hackney carriage driver must, if requested by the passenger, provide a written receipt for the fare paid.
- 5.1.8** The Guidance also recognises that there is a case for allowing any hackney carriage proprietor who wish to do so, to make it clear by advertising that they charge less than the maximum fare.

5.2 Fees

- 5.2.1** The Guidance does not deal with the issue of licensing fees at all. It is, however, generally recognised that the fees set for all hackney carriage and private hire licences should be such as to ensure that the costs of the service, including the cost of issue and administration will so far as possible be met from fee income.
- 5.2.2** It is, on the other hand, not lawful for the Council to seek to make a profit from licence fees that are within its discretion. In particular, with regard to the fees charged for hackney carriage and private hire vehicle and operator licences, the legislation provides that these should be sufficient to cover the costs of inspecting the vehicles, providing hackney carriage stands and administering the control and supervision of hackney carriages and private hire vehicles.
- 5.2.3** The fees payable for the grant and renewal of hackney carriage and private hire licences will be reviewed annually as part of the budgetary process and licence holders will be consulted and notified of any changes.

5.3 Payments

- 5.3.1** Online payments can be made via the Council's website (www.swale.gov.uk)
- 5.3.2** All payments must be made before plates and badges will be issued.

5.4 Refunds, Transfers and Duplicate Copies

- 5.4.1** In the case of any licence where the licence holder surrenders their licence prior to the expiry date, refunds will be given on a pro-rata basis in respect of the unexpired portion of the licence fee.
- 5.4.2** In common with most types of licence, an appropriate fee will be paid to cover the administrative costs associated with the transfer of a licence
- 5.4.3** Where the Council receives a request for a duplicate copy of any previously issued licence, an appropriate fee will apply to cover the associated administrative costs.

6. Disciplinary and Enforcement Measures

6.1 Enforcement

- 6.1.1** It is recognised that well-directed enforcement activity by the Authority benefits not only the public but also the responsible members of the hackney carriage and private hire trades. The DfT accepts that the resources devoted by licensing authorities to enforcement will vary according to local circumstances. They remind authorities, however, that it is desirable to ensure that hackney carriage and private hire enforcement effort is at least partly directed to the late-night period, when problems such as touting tend most often to arise.
- 6.1.2** In pursuance of its objective to encourage responsible hackney carriage/private hire businesses, the Council will operate a firm but fair disciplinary and enforcement regime. With a view to balancing the promotion of public safety with the need to permit individuals to safeguard their livelihood without undue interference the Council

will only intervene where it is necessary and proportionate to do so, having regard to the objectives outlined in section 1.3 of this document.

- 6.1.3** The Taxi Licensing and Enforcement Policy & Practice set out at **APPENDIX J** will be used to ensure that its enforcement effort is reasonable, transparent and well directed.

6.2 Disciplinary Hearings

- 6.2.1** Disciplinary matters, except in the case of mechanical defects to the vehicle, will ordinarily be referred to the Licensing Sub Committee or will be dealt with by officers. One of the functions of the Licensing Sub Committee is to consider the impact of transgressions of the law on the fitness of an individual to hold a hackney carriage or private hire licence and to take the action appropriate to the circumstances.

6.3 Penalty Points Scheme

- 6.3.1** Whilst the operation of a successful hackney carriage and private hire vehicle service is important to the economic well-being of the Borough, it is equally important that the service provided by the trade is properly regulated in order to instil confidence in the travelling public who wish to use the service.
- 6.3.2** The Council clearly has a responsibility to ensure that all drivers, owners and operators of vehicles adhere to basic minimum standards and to do this in a consistent and transparent manner. These standards are defined by legislation, licence conditions, codes or bye-laws adopted by the Council. Together they identify what is required of the trade and help to ensure that a consistent approach is taken by Council Officers, in their application.
- 6.3.3** The Council has found that an effective means of applying the conditions is through a penalty point's scheme. 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. This scheme is used to enforce current legislation and any bye laws in respect of Hackney Carriage Drivers and will be operated as follows:
- a) 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.
 - b) Where it is decided that the use of the penalty points system is appropriate, the points are issued in accordance with **APPENDIX G**. If the appendix allows a range of points for a particular incident, the authorised officer will determine the appropriate number of points proportionate to the offence.
 - c) The Licensing Sub-Committee may also require that a driver undertake additional training in order to maintain their licence. Any additional training will be at the drivers' expense. The Licensing Sub-Committee may also suspend a licence until such times as a driver successfully completes such training.
 - d) The penalty points system outlined in **APPENDIX G** identifies a number of breaches of conditions, byelaws and/or statutory provisions. It then indicates the number of maximum points to be invoked should the breach be proven.

- 6.3.4** It is believed that the penalty points scheme has assisted 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 current penalty points system can be found in **APPENDIX G**.

7. OFFENCES

- 7.1** Offences in relation to hackney carriages are derived from the following sources:

- a) Town Police Clauses Act 1847 (hackney only);
- b) Local Government (Miscellaneous Provisions) 1976 (hackney and private hire);
- c) Transport Act 1980 (private hire only)

8. TAXI RANKS

- 8.1.1** A number of ranks (also known as stands) for hackney carriages have been designated within the Swale Borough Council area:

Faversham:

- Station Road
- Stone Street
- Leslie Smith Drive

Sittingbourne:

- Railway Station (permit only)
- High Street (time limited)
- Forum Service Road
- Central Avenue

Sheerness:

- Railway Station
- Bridge Road
- Hope Way

- 8.1.2** The number and position of taxi ranks within the Borough may change due to regeneration schemes. These will be reviewed and appointed as and when schemes are planned and adopted.

8.2 Waiting on Stands

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

9. RIGHTS OF APPEAL

- 9.1** In certain circumstances, 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 below:

- a) Any person aggrieved by the refusal of the Council to grant a private hire vehicle licence under the Local Government (Miscellaneous Provisions) Act 1976, or by any conditions specified in such a licence, may appeal under Section 48 of such Act
 - b) Any person aggrieved by the refusal of the Council to grant a licence to drive private hire vehicles, or by any conditions attached to the grant of such a driver's licence, may appeal to a Magistrates' Court under Section 52, Local Government (Miscellaneous Provisions) Act 1976
 - c) Any person aggrieved by the refusal of the Council to grant a licence to operate private hire vehicles under the Local Government (Miscellaneous Provisions) Act 1976, or by any conditions attached to the grant of such a licence, may appeal to a Magistrates' Court under Section 55 of the Local Government (Miscellaneous Provisions) Act 1976
 - d) Any person aggrieved by the refusal of the Council to grant a licence to drive a hackney carriage on the ground that he is not a fit and proper person to hold such a licence may appeal to a Magistrates' Court under Section 59 of the Local Government (Miscellaneous Provisions) Act 1976
 - e) Any driver aggrieved by a decision of the Council to suspend, revoke or refusal to renew any licence for a hackney carriage or private hire vehicle may appeal to the relevant Court under Section 60 of the Local Government (Miscellaneous Provisions) Act 1976
 - f) Any driver aggrieved by a decision of the Council to suspend, revoke or refusal to renew any Licence to drive a hackney carriage or private hire vehicle may appeal to Magistrates' Court under Section 61 of the Local Government (Miscellaneous Provisions) Act 1976.
 - g) Any operator aggrieved by a decision of the council to suspend, revoke or refusal to renew an operator's licence may appeal to a Magistrates' Court under Section 62 of the Local Government (Miscellaneous Provisions) Act 1976
- 9.2** Any appeal must be lodged at the Court within twenty-one (21) days of the applicant receiving notification of the Council's decision. The appeal must state the grounds
- 9.3** Any person aggrieved by any conditions attached to a hackney carriage licence may appeal to a Magistrates Court under Section 47, Local Government (Miscellaneous Provisions) Act 1976
- 10. COMPLAINTS**
- 10.1** Anyone wishing to complain about a taxi company or an individual taxi driver can either email taxis@swale.gov.uk or access the formal complaints system on the council's website <https://swale.gov.uk/news-and-your-council/contact-us/comments-compliments-and-formal-complaints/make-a-complaint-about-a-taxi-or-private-hire-driver#h2>

APPENDIX A**HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES SPECIFICATION AND SCHEDULE OF CONDITIONS****Conditions that apply to Hackney Carriage and Private Hire vehicles****1. General Construction**

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

2 Age

- 2.1. All vehicles that are licensed for 4-6 passengers will be licensed for up to 10 years from the date of first registration.
- 2.1.2 Purpose built and multi-seat vehicles that are licensed for 7-8 passengers and which must have wheelchair accessibility, will be licensed for up to 15 years from first registration.
- 2.2 Vehicles will be no more than 8 years old at the time of presenting as a new vehicle for a 10 year licence and no more than 12 years old at the time of presenting as a new vehicle for a 15 year licence and must be in a pristine condition.
- 2.3 Requests for an extension to the maximum age beyond which a vehicle will not normally be licensed will be considered on a case-by-case basis.
- 2.4 From 1 April 2023, all vehicle licence applications for newly licensed vehicles (i.e. all applications other than those to 'renew' an existing vehicle licence for the same vehicle by the same holder) must be for low emission vehicles (LEV) - either all electric, electric/fuel hybrid or Euro 6 diesel and Euro 6 petrol compliant. Older vehicles have over 3 times and some as much as 6 times the permitted emissions limit of Euro 6 diesel and petrol.
- 2.5 From 1 April 2023, all Euro 6 diesel and Euro 6 petrol vehicles will be licensed for a maximum period not to exceed 1 April 2033. Wheelchair and Executive vehicles are exempted from this requirement.
- 2.6 From 1 April 2030, all new vehicle licence applications must be for vehicles that are ultra-low emission (ULEV) i.e.: less than 75 grams of CO₂. ULEV includes battery electric vehicle (BEV), extended range electric vehicle (E-REV) plug-in hybrid electric vehicle (PHEV) or fuel cell electric vehicle (FCEV-hydrogen vehicle).
- 2.7 Vehicles licensed for 10 years may only have a maximum of 6 passenger seats in addition to one driver seat.
- 2.8 All multi-seat vehicles with more than 6 passenger seats must be wheelchair accessible and fitted with full tracking and/or flip up seating to ensure wheelchair

accessibility with a minimum space for the wheelchair of 1.4m and wheelchairs must be secured in accordance with safety regulations. Vehicles with fixed seating must have a permanent available space to accommodate a wheelchair. For Licensed Vehicles which are exempt in displaying their plate (known as executive vehicles), these are not required to have wheelchair access, however other conditions are applicable as shown in **APPENDIX B**.

2.9 Vehicle Testing, Inspections and Insurance

- 2.9.1** It is vitally important that the vehicles are covered at all times by appropriate insurance and that certification is provided to the Council to evidence this. Failure to present insurance within three (3) weeks of its due date will result in suspension of the licence. Failure to produce insurance within six (6) weeks will result in revocation of the licence.
- 2.9.2** No vehicle may be used as a taxi unless it has been given a Certificate of Compliance in respect of a satisfactory test from a Swale accredited test station and has been appropriately licensed by the Council.
- 2.9.3** There will be an annual test for all licensed vehicles. The test must be carried out by a Swale Borough Council approved garage.
- 2.9.4** All vehicles over 5 years old will be required to pass two Certificates of Compliance in respect of a satisfactory test from a Swale accredited test station, 6 months apart.
- 2.9.5** Vehicles will be subjected to periodic, random inspections by authorised officers of the council or other agencies (e.g. police). These inspections will be carried out on taxi ranks, at taxi offices or a driver may be required to present his vehicle to authorised officers of the council at the council offices in Sittingbourne or any other reasonable location. Any driver that refuses to present their vehicle without a satisfactory reason could be issued penalty points
- 2.9.6** Where an authorised officer of the Council has reasonable grounds to suspect that the condition of a vehicle poses a danger to either passengers or other members of the public, he/she may serve on the driver/proprietor a vehicle defect notice. In such cases the vehicle licence shall be immediately suspended until such time as the defect(s) have been remedied. The suspension shall not be lifted until it is proven to the authorised officer that the vehicle defect has been corrected.
- 2.9.7** Where an authorised officer of the Council has reasonable grounds to suspect that the vehicle has defects of a minor or cosmetic nature he may serve the driver/proprietor with a vehicle defect notice and may specify a period of time to allow for these defects to be remedied to his satisfaction.
- 2.9.8** Failure to comply with a vehicle defect notice issued by the Council within the statutory period for compliance will result in the revocation of the vehicle licence as required by law.
- 2.9.9** Where the relevant Committee or Sub-Committee of the Council is satisfied that a vehicle fails in any respect to meet any specification or condition of licence the

relevant construction and use regulations required by law they may suspend a vehicle licence for any specified period.

3. Engine Capacity

- 3.1** All licensed vehicles, with the exception of wheelchair accessible vehicles, must achieve a level of carbon dioxide emissions of less than 160g/km up to 31/03/2025. Liquid petroleum gas (LPG) is an approved fuel type and vehicles so fitted can display this fact on the vehicles in a form to be approved by an authorised officer.
- 3.2** Licensed vehicles must be capable of producing at least 90 bhp.

4. Body

- 4.1** 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.
- 4.2** 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 the Council must be fitted.
- 4.3** All Hackney Carriages will be coloured white, with a permanent green stripe (Kelly Green 2" wide), front to rear fixed on both sides. Magnetic stripes are not acceptable. Private Hire vehicles will be any colour other than white.
- 4.4** The body must be of the fixed head type.
- 4.5** Windows must be provided at the sides and rear and passengers door windows must be capable of being easily opened and closed by passengers.
- 4.6** Towing Bars may only be fitted with the approval of Swale Borough Council. An additional licence plate will be required to be fitted to the rear of the trailer and the trailer be subjected to an annual test.
- 4.7** The name of the Taxi Company or operator must be clearly and permanently displayed by all operators on the front doors of all vehicles with a minimum size of 250mm wide x 250 mm deep and a maximum size of 450mm wide x 350mm deep. The same maximum sizes may be applied to the rear bodywork if desired. The email address and/or Fax or Phone number of the operator may also be included within the display area on front doors of vehicles and on the rear of the roof sign. Operators are allowed to display the company telephone number, e-mail address and fleet car number along the bottom of the rear window of vehicles with a maximum height of 50mm. No other advertising, including radio stickers, football stickers or any other signs is permitted.
- 4.8** In line with the 2023 DfT Guidance, Private Hire vehicles are to be fitted with permanent signage on the front doors stating "Pre-booked only".
- 4.9** The flying of flags from vehicles is also prohibited on safety grounds.

5. Steering

- 5.1** 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.

6. Tyres

- 6.1** All tyres at normal pressure under load must have a suitable minimum circumference for correct operation of the taximeter.
- 6.2** 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.
- 6.3** A full set of matching wheel trims should be maintained on all vehicles that do not have alloy wheels.
- 6.4** To ensure vehicle safety standards are met, all licensed vehicles must be certified by the Vehicle Certification Agency (VCA) to one of the standards listed below and be M1 classified i.e. built to be a passenger carrying vehicle:
- EC Whole Vehicle Type Approval
 - UK Low Volume Type Approval
 - Individual Vehicle Approval

7 Suspension

- 7.1** The vehicle must be fitted with an efficient suspension system so designed and constructed that there is no excessive roll or pitch.

8 Fuel Tank

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

9. Seating

- 9.1** Seating in saloon and estate cars does not normally cause concern. Multi-purpose vehicles (MPV's) or people carriers offer a bewildering number of seat configurations often to match the owner's needs. In the interests of public safety of the passengers it is necessary to examine these seating arrangements to ensure that in the event of a collision or fire there is unobstructed egress from the vehicle. If MPV's or people carriers have individual seats, it may be necessary to remove a second row middle seat to permit improved access to the rearmost seats. This however would reduce the maximum permissible passengers by one. Alternatively, in the event of an emergency, passengers should be able to exit the vehicle through the rear and emergency brake glass hammers should be fitted.

9.2 Therefore:

- a) The passenger carrying capacity will be at the discretion of the licensing authority.
- b) The rear seat of the vehicle of the vehicle must be a width of 53"
- c) The seat is to be measured door to door
- d) All seats must be fitted with fully operational seat belts
- e) The number of passenger seats must remain as stated on the vehicle licence
- f) There must be no alteration to the seating configuration without notifying the Council
- g) All seats must be forward or rear facing
- h) All vehicles must be able to seat a minimum of 4 passengers in comfort with sufficient legroom for all passengers
- i) The seat covering must be clean and in a good state of repair
- j) Seat covers may not be used to conceal serious defects in passenger seats. Seat covers should be removed when the Hackney Carriage test and inspection is undertaken. Seats identified with major defects or tears replaced.

10. Luggage

10.1 Adequate storage for passenger luggage must be available, adequately separated from the passenger compartment without obstructing any emergency exits. Luggage carried must be suitably secured in place.

10.2 Estate cars or multi-passenger type vehicles, can cause a safety concern when stacking luggage in the vehicle by the potential danger to passengers should the vehicle have to harshly brake or be involved in an accident. It is recommended that luggage should not be stacked above the height of the rear seats unless the vehicle is designed with or fitted with suitable luggage restraints or covers to prevent luggage from entering the passenger compartment. Alternatively, a guard rail should be fitted.

11 Facilities for driver

11.1 The vehicle must be so designed and constructed that the driver has adequate room, can easily reach and operate the controls and give hand signals on the offside of the vehicle.

11.2 The vehicle must be fitted with at least two mirrors fitted externally to the vehicle, one to the offside and one to the nearside, with another mirror fitted internally. All mirrors are to be fitted and adjusted to afford the driver a clear view to the rear of the vehicle.

11.3 The vehicle must be fitted with adequate devices for demisting and defrosting the windscreen and rear window and for washing the windscreen.

12 Heating

12.1 An adequate heating system must be provided and maintained for the driver and passengers and, where the driver's compartment and passenger compartment are separate, controls must be provided for independent control by the driver and passengers

13 Communication between Passenger and Driver

- 13.1** Sufficient means must be provided by which any person in the vehicle may communicate with the driver.
- 13.2** CB radios are not permitted in Hackney Carriage/Private Hire Vehicles.
- 13.3** Radio Scanners of any kind will not be permitted to be carried or installed within Hackney Carriage and Private Hire vehicles.

14 Floor covering

- 14.1** The floor of the vehicle must be covered with a suitable carpet, mat or other covering which can be readily cleaned.

15 Radio Equipment

- 15.1** If two-way equipment is provided in the vehicle, it must be in a position approved by the Council and maintained in a sound condition.

16 Mobile Telephones

- 16.1** Mobile telephones may only be used with a hands-free kit or a Bluetooth headset.

17 CCTV Systems

- 17.1** All CCTV systems fitted to licensed vehicles must comply with the Approved CCTV protocol and be confirmed by Swale Borough Council in writing.

18 Insurance

- 18.1** If a cover note rather than a 'full' insurance certificate is presented, a Hackney Carriage Licence/Private Hire licence will not be issued. An emailed certificate from insurance companies/brokers is acceptable. In all cases drivers must carry such insurance certificates with them when their vehicle is in commercial use. (photocopies will be acceptable).

19 Disability Access

- 19.1** Where a vehicle is utilised for the carriage of passengers in a wheelchair, the following conditions shall apply:
 - a) Access to and exit from the wheelchair position must not be obstructed in any manner at any time except by wheelchair loading apparatus.
 - b) 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.
 - c) A suitable restraint must be available for the occupant of a wheelchair.
 - d) Access ramps or lifts to the vehicle must be securely fixed prior to use, and be able to support the wheelchair, occupant and helper.
 - e) Ramps and lifts must be securely stored in the vehicle before it may move off.

- 19.2** Any equipment fitted to the vehicle for the purpose of lifting a wheelchair into the vehicle must have been tested in accordance with the requirements of the Lifting Operations and Lifting Equipment Regulations 1998 (S.I. 1998/2307). Any such equipment must be maintained in good working order and be available for use at all times.
- 19.3** Test certification is to be made available to an authorised officer of the council upon request.
- 19.4** Subject to the provisions of paragraph 4 above the proprietor may affix a sign on the outside of the vehicle indicating that it is able to convey passengers in wheelchairs provided the vehicle has been manufactured or properly adapted for that purpose.

20 Smoking

- 20.1** The Health Act 2006 and its associated regulations require vehicles to be smoke free. A vehicle means every type of enclosed hackney carriage and private hire vehicle shall be smoke free at all times.
- 20.2** Under the Health Act 2006 and the Smoke-free (Signs) Regulations 2007, all hackney carriage and private hire vehicles will also be required to display the prescribed no-smoking signs and be 70 mm square. The signage must be displayed in a prominent position which includes all rear passenger door windows at high level, plus one on the front passenger side dashboard or door window at high level. The signs will be included on the annual inspection and vehicles with either damaged or no signs, will not be licensed until satisfactory signs are in place.
- 20.3** The Smoke-free (Vehicle Operators and Penalty Notices) Regulations 2007 set out the persons who have legal duties to stop any person who is smoking in a smoke free vehicle, they are:
- a) the driver
 - b) any person with management responsibilities for the vehicle
 - c) any person in a vehicle who is responsible for order or safety in it
- 20.4** The smoking of e-cigarettes, vapes or any similar devices are not permitted in licenced vehicles.

21 Animals

- 21.1** Since 31 March 2001 licensed taxi drivers in England and Wales have been under a duty (under s.37 of the Disability Discrimination Act 1995) to carry guide, hearing and other prescribed assistance dogs in the vehicles, without additional charge.
- 21.2** Drivers who have a medical condition that is aggravated by exposure to dogs may apply to the licensing authority for exemption from the duty on medical grounds. 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.

- 21.3** 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.

22 The Licensing Officer

- 22.1** It is a criminal offence to obstruct a Licensing Officer or any other authorised officer of the Council.
- 22.2** From time to time it is necessary for the Licensing Officer or any other authorised officer to examine or check the vehicle.
- 22.3** Vehicles are liable to be examined at any time by an authorised officer of the council, the DVSA or the Police.

23 Conditions that apply to Restricted Private Hire Vehicles only

- 23.1** A restricted private hire vehicle will only be licenced for client transport services operated under contracted to a Local Authority or on written agreement with Swale Borough Council Licensing for specialised contract work for executive car hire.
- 23.2** Applications for new and renewal restricted private hire vehicle licences must be accompanied by evidence of a contract for client transportation services between a Swale licenced private hire operator and the Local Authority or a written agreement with Swale Borough Council Licensing for specialised executive car hire. before commencing to operate the vehicle under the licence.
- 23.3** Restricted private hire vehicles are not permitted to be fitted with a taximeter.

Conditions that apply to Hackney Carriage Vehicles only

24 Seating for purpose built hackney carriages

- 24.1** In the case of any folding seat as found in purpose built hackney carriages:
- a) the width of the cushion seat must not be less than 16 inches (406mm)
 - b) the depth from the upholstery at the back to front edge of the seat must not be less than 14 inches (355mm)
 - c) the shortest vertical distance between the un-deflected seat cushion and the roof lining immediately above must not be less than 33 inches (839mm)
 - d) the vertical distance between the highest point of the un-deflected seat cushion and the top of the floor covering must not be less than 12 inches (305mm)
 - e) where seats are placed facing each other there must be a clear space of 17 inches (432mm) between any part of the front of a seat and any part of any other seat which faces it.
 - f) any such folding seat must be so constructed and arranged to rise automatically when not in use and must not obstruct any doorway when not in use.

24.2 Nothing shall prevent

- a) the licensing of any purpose built hackney carriage which has 2 folding seats and a rear seat width of 45 inches (1143mm) for the carriage of four passengers
- b) the licensing of any purpose built hackney carriage which has 2 folding seats and a rear seat width of not less than 50 inches (1227 mm) for the carriage of 5 passengers

25 **Taximeters**

- 25.1** An approved 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 appropriately stamped to ensure compliance with The Measuring Instruments (Taximeters) Regulations 2006, or any subsequent legislation.
- 25.2** 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.
- 25.3** 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, on clearly legible figures a fare not exceeding the maximum fare that may be charged for that journey.
- 25.4** In the event of a journey commencing in but ending outside the area covered by Swale Borough Council, there may be charged for the journey such fare as was agreed before the hiring was effected. If no such agreement was made then the fare to be charged should be no greater than that fixed by the Council in connection with the fare tariff for the hire of hackney carriages.
- 25.5** Private hire vehicles are not required to be fitted with a taximeter but where a taximeter has been fitted, it must be of a type approved by the Council.
- 25.6** The fare recorded on the face of the taximeter must be of an amount calculated strictly in accordance with the Council's table of fares in force at the time.
- 25.7** When a taxi meter is programmed to record a new table of fares, action must be taken at that time to ensure that it is impossible to record on the face of the meter any table of fares other than that currently in force.
- 25.8** Any taximeter with which the vehicle is provided shall be so constructed, attached and maintained as to comply with the following requirements:
- a) the taximeter shall be fitted with a flag or other device bearing the words 'FOR HIRE'
 - b) the taximeter shall be fitted with a key or other device the turning of which will bring the machinery of the taximeter into action and cause the word 'HIRED' to appear on the face of the taximeter

- c) such key or device shall be capable of being locked in such a position that the machinery of the taximeter is not in action and no fare is recorded on the face of the taximeter
- d) when the machinery of the taximeter is in action there shall be recorded on the face of the taximeter in figures clearly legible and free from ambiguity a fare not exceeding the rate or fare which the proprietor or drivers is entitled to demand and take in pursuance of the table of fares approved by the Council in that behalf for the hire of the vehicle by distance or by distance and time.
- e) the word 'FARE' shall be printed on the face of the taximeter in plain letters so as to clearly apply to the fare recorded thereon.
- f) the taximeter shall be so placed that all letters and figures on the face thereof may at all times be plainly visible to any person being conveyed in the vehicle and that for the purpose the letters and figures shall be suitably illuminated during any period of hiring.
- g) the taximeter and all fittings thereof shall be so affixed to the vehicle with seals or other appliances that it shall not be practicable for any person to tamper with them except by breaking, damaging or permanently displacing the seals or other appliances.

26 Signage

- 26.1** All hackney carriage vehicles, except those with built-in roof signs should carry illuminated roof-mounted signs indicating that they are a hackney carriage (the use of the word "Taxi" is acceptable to fulfil this requirement).
- 26.2** The roof sign shall be so arranged that it is illuminated when the vehicle is available for hire but that when the machinery of the taximeter is in action the illumination of the sign shall be extinguished.
- 26.3** The roof sign must be white, minimum width 400mm (16 inches long), centrally placed on the width of the roof with TAXI to be displayed on the front face. Lettering should be black and may include the company name on the rear face.
- 26.4** Similarly, and in order to differentiate between the two types of licensed vehicle, private hire vehicles are not permitted to carry roof- mounted signs of any kind or display any references to the words 'Taxi' or 'Hackney Carriage'.
- 26.5** The Local Government (Miscellaneous Provisions) Act 1976 requires that private hire vehicles and drivers display the relevant licence plate and badge issued by the authority at all times.
- 26.6** The open display of these identifying plates and badges is important in terms of protecting both the public and the taxi trade. However, there are limited occasions where the display of such identification may have the opposite effect both in terms of customer safety and commercial implications for the operating business. The executive and limousine vehicles are a case in point. Identification of the vehicle as a licensed vehicle may allow "high risk" passengers to be more readily targeted putting both them and driver at risk. The display of local authority plates externally may also deter some customers from using the service; because of these factors the exemption below is available.

26.7 The only exception to not displaying the external plate is with the provision of an exempted plate that is pre-approved by an authorised Officer. The following requirements set the standard for this approval;

- a) Vehicles that can have an exempted plate will generally be accepted luxury brands. and the highest specification executive type cars and minibuses from high-end manufacturers following inspection and approval from an authorised Officer.
- b) The vehicle must have no visible defects, dents or blemishes to the external bodywork or internal trim.
- c) The exemption letter must always be carried in the vehicle at all times

27 Advertising

27.1 All Third party advertising is not permitted on vehicles including radio stickers, football stickers or any other signs with the exception of the vehicle producer / supplier details. However, the name of the taxi company must be displayed on the front doors of all Hackney vehicles and Proprietors are allowed to also display company details on the rear of vehicles. Private Hire vehicles must state 'Pre-booked only' on the front doors.

28 Fare Table

28.1 A fare table of a size and design approved by the Council must be permanently affixed in a conspicuous position inside the vehicle so that it is clearly and conveniently visible to any passenger being conveyed in the vehicle.

29 Breakdowns.

29.1 If, whilst hired, the vehicle breaks down or otherwise becomes unfit or unable to carry the hirer to his/her destination the proprietor must;

- a) secure, without delay, suitable alternative licenced hackney carriage or private hire vehicle to carry the hirer to his/her destination unless the hirer voluntarily elects to wait until the vehicle is repaired or is otherwise able to continue the journey
- b) report the occurrence to the Council within 24 hours.

30 Presentation of vehicle for inspection

30.1 The proprietor must present the vehicle for inspection at any time and at any place required by the Council. If the vehicle is not presented at the place and time required by the Council, then it may not be used as a Licensed Vehicle without the Council's approval.

31.2 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.

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APPENDIX B CONDITIONS FOR EXECUTIVE VEHICLES AND LIMOUSINES**1 TYPES OF VEHICLES**

- 1.1** The vehicle must have one of the following:
- a) A UK Single Vehicle Approval Certificate
 - b) A European Whole Vehicle Approval Certificate
 - c) UK Low Volume Type Approval Certificate
- 1.2** If the vehicle has a UK Single Vehicle Approval Certificate, the licensing authority will expect that the vehicle will have been modified in accordance with a program approved by the original vehicle manufacturer and have appropriate documentary proof.
- 1.3** All limousines require Individual Vehicle Approval. Further information is available on the GOV.uk website.
- a) An age limit will not normally be applied to limousines
 - b) Both left hand and right hand drive limousines will be considered for private hire licensing
 - c) Sideways facing seating will be permitted in limousines providing that it conforms to all relevant road traffic vehicle legislation
 - d) There is no restriction to the level of tint for glass windows in the passenger compartment. However, for the safety of passengers, tinted glass in the windscreen and front doors must comply with The Road Vehicles (Construction and Use) Regulations 1986
- 1.4** 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, as each vehicle will be considered on its merits.

2 VEHICLE AND SAFETY EQUIPMENT

- 2.1** Stretched limousines and similar vehicles shall comply with the existing conditions of licence applicable to licensed private hire vehicles in so far as they are not superseded by these additional conditions and the local private hire licence fee shall be the same.
- 2.2** The Proprietor of a vehicle shall:
- a) ensure that the vehicle and all its fittings and equipment are at all times kept in a fit, serviceable, efficient, safe and clean condition and all relevant statutory requirements (including those contained in the Motor Vehicles (Construction & Use) Regulations) are fully complied with. Should the vehicle fail to comply with any legal requirement then the vehicle should be removed from service until the reasons for non-compliance is rectified;

- b) ensure that loose luggage is not carried within the passenger compartment of the vehicle;
 - c) ensure that if any CCTV cameras installed in the vehicle have received prior written approval of the Council; and
 - d) display a Council approved sign, in a position clearly visible to passengers, warning customers that camera surveillance equipment may be in operation.
 - e) ensure the vehicle is fitted with tyres that meet both the size and weight specification.
- 2.3** Vehicles may be granted an exemption from the requirement under the conditions of licence for private hire vehicles to be right hand drive.
- 2.4** Limousines with sideways facing seating to be considered for private hire licensing.
- 2.5** The passenger compartment of the vehicle may be fitted with darkened or blackened glass.
- 2.6** The driver's compartment, including the front passenger seat must not be fitted with darkened or blackened glass.
- 2.7** The licence holder shall not at any time use or permit to be used in the vehicle a radio scanner or citizen band radio.
- 3 USE OF VEHICLE**
- 3.1** The proprietor of the vehicle or the holder of a private hire operator's licence responsible for the booking shall:
- a) ensure that the vehicle is at all times only driven by a person who holds a relevant driver's licence issued by Swale Borough Council;
 - b) not permit to be conveyed in the vehicle more than the number of persons for which the vehicle is licensed, regardless of the age or size of the passengers;
 - c) ensure that in any advertisement publicising their limousine service, the vehicle is only licensed to carry a maximum of eight passengers.
 - d) not convey any passengers in the front compartment of the vehicle;
 - e) A taxi office shall not supply any alcohol in the vehicle unless there is in force an appropriate authorisation under the Licensing Act 2003 permitting the sale or supply of the same.
 - f) if the occupants are below the age of 18, there should be no alcohol in the vehicle for consumption or otherwise.
 - g) any glassware in the vehicle must be made of either shatterproof glass or plastic.
 - h) 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 passengers in the vehicle.
 - i) when directed by the Council, display and maintain any notices in a conspicuous position.

4 VEHICLE IDENTIFICATION

- 4.1** The vehicle will not be required to display the rear, external private hire vehicle licence plates or “prebooked” signage which must normally be displayed by licensed private hire vehicles. The proprietor of the vehicle will be issued, by the Council, with the licence identification which identify the vehicle as a private hire vehicle on which will be displayed the registration number of that vehicle and the number of passengers permitted to be carried. The proprietor shall ensure that:
- a) The internal plate shall be fixed inside the vehicle in such a position (such as the bulkhead or security screen) as to be visible to persons conveyed therein;
 - b) No private hire limousine vehicle identification shall be parted with, lent or used on any other vehicle and the loss or damage of the vehicle identification shall be reported to the Council as soon as the proprietor is aware of the loss. In the event of ceasing to use the vehicle for private hire (special event) purposes the proprietor shall surrender the vehicle identification and licence to the Council within seven days.
 - c) The Exemption Letter issued by the Council, to be readily available in the licensed vehicle at all times, for inspection by an authorised officer.

5 SIGNS, NOTICES, ETC

- 5.1** No signs, notices, advertisements, plates, marks, numbers, letters, figures, symbols, emblems or devices whatsoever shall be displayed on, in or from the vehicle, other than those specifically approved by the Council.

6 INSURANCE/MOT TEST CERTIFICATE

- 6.1** The vehicle must not be used to carry passengers for private hire special events unless there is in force for the vehicle:
- a) A statutory MOT and certificate of compliance by a Council approved testing station every year. Once the vehicle is over 5 years old it requires two Certificates of Compliance a year being at 6 monthly intervals.
 - b) a policy of insurance covering the use of the vehicle for private hire special events and the proprietor of the vehicle is shown as the policy holder and any other licensed private hire limousine vehicle drivers who drive the vehicle are covered.
- 6.2** These documents shall be produced to an authorised officer of the Council or a Police Officer at such time and place as may be required.
- 6.3** If the insurance cover on the vehicle is cancelled, expires or fails to cover the use to which the vehicle is being put, the Licensing Officer shall be informed immediately and the vehicle shall not be used until appropriate cover is obtained.

7 DEPOSIT OF LICENCES

- 7.1** If the proprietor permits or employs any other person to drive their private hire limousine vehicle, they shall, before that person commences to drive the vehicle, cause the driver to deliver to him a copy of their relevant licence for retention until such time as the driver ceases to be permitted or employed to drive that vehicle.
- 7.2** The loss of any vehicle or driver licence shall be reported to the Council as soon as possible.

8 GENERAL CONDITIONS

- 8.1** All Operators will be required to sign a declaration stating that the vehicle will not carry more than 8 passengers and at the time of booking the vehicle, the restriction of carrying no more than 8 passengers shall be explained to the hirer.
- 8.2** The Licensee must produce a copy of the Single Vehicle Approval certificate at time of licensing.

APPENDIX C**HACKNEY CARRIAGE AND PRIVATE HIRE APPLICATION PROCEDURES****1. Vehicles**

- 1.1 A Hackney Carriage or Private Hire Vehicle Licence shall be valid for a standard term of one year.
- 1.2 Council officers will send a reminder letter to the current taxi proprietor or operator three months before the existing licence expires in order to assist applicants in their prompt submission of re-licensing applications. However, responsibility for the prompt submission of all required documents rests with the proprietor or operator.
- 1.3 Officers may only accept complete applications comprising all the necessary paperwork. If an application is received late the applicant's vehicle may be unlicensed for a period of time during which they will be unable to use it as a licensed vehicle.
- 1.4 From the date of receipt of a satisfactory and complete vehicle licence application a minimum of one week is required before the appropriate licence can be issued.
- 1.5 The licence fees payable are subject to periodic review and will be published together with other Council licensing fees

2. New licences and renewal licences for vehicles

- 2.1 An applicant will need to complete the following at least five working days before their vehicle plating:
 - a) the necessary online application form
 - b) the relevant fee
 - c) the Vehicle Registration Document issued by the DVLA, or proof of ownership
 - d) Insurance Certificate confirming the vehicle is covered for 'Hire and Reward' – if a cover note is provided licence holders will be required to produce further insurance certificates on or before the expiry of the cover note
 - e) MOT certificate
 - f) Certificate of Compliance completed by a Council approved garage
- 2.2 All documents must be sent to the Licensing Department via email to taxis@swale.gov.uk
- 2.3 The successful completion of this procedure will be indicated by the issue of an appropriate hackney carriage/private hire vehicle licence together with the necessary plates for the vehicle, which must not be used for hire or reward until these are attached to the licence.

3. Replacement Vehicle on an existing hackney carriage or private hire vehicle licence

- 3.1** If, during the term of the vehicle licence, it becomes necessary to replace the existing vehicle with another, all of the supporting documents as detailed above must be submitted, together with the original licence for endorsement with the new vehicle details. All of the 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.
- 3.2** The appropriate fee will be charged for this process which takes into account the supply of a new vehicle plate.

4. Transfer application for an existing hackney carriage or private hire vehicle from one licensed driver to another

- 4.1** This is the only licence that may be transferred
- 4.2** Documentation as described in 2.1. above must be provided together with the original licence for endorsement with the new details. All of the 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.
- 4.3** There is a fee for this process.

5. DRIVERS

- 5.1** An applicant will need to complete, in full, the necessary application form accompanied with the appropriate fee.
- 5.2** All applicants must have held a DVLA driving licence for one year. It is generally expected that applicants between the ages of 18 and 21 will not have an DVLA penalty points.
- 5.3** All new applicants can apply for either a Private Hire only or Dual licence. To obtain either licence, the applicant must pass the Knowledge Test as detailed in **APPENDIX E**. Those with a Private Hire only licence, may upgrade to a Dual licence by sitting the appropriate Knowledge Test and paying the relevant fees.
- 5.4** An applicant has 6 months in which to take out a licence subsequent to successfully passing the Knowledge Test. Failure to complete the application process within this time will result in your application being terminated and no refunds are given.

5.5 The following documentation must be provided:

Documents to be supplied to Licensing, Swale Borough Council	When documents must be supplied
Full DVLA, Northern Ireland, or other EEA state Drivers licence which has been held for at least 12 months. A holder of an acceptable non-UK driving licence must obtain a full UK driving licence within twelve months of the grant of a hackney carriage or private hire drivers' licence.	New and Renewal Application
1 colour photograph of passport size and standard, showing the full face of the applicant as it would normally appear.	New and Renewal Application
A medical certificate, obtained from the drivers own GP or someone with access to their medical records indicating that the applicant is physically fit and able to fulfil the role, to DVLA Vocational Group 2 Standards.	New and Renewal Application
Enhanced Disclosure and Barring Service certificate, less than one month old. All overseas applicants who have resided in this country for less than three years obtain a Certificate of Good Conduct from their relevant embassy or consulate, at the applicant's expense, authenticated, translated and sealed by the embassy or consulate. Details of the reference number of the DBS Update Service which all drivers must join as a mandatory condition of licence	New Application New and Renewal Application
Proof of identity – Passport or Birth Certificate	New and Renewal Application
Confirmation of address – Utility bill or similar as approved by an authorised officer. The document must be dated less than 3 months old.	New and Renewal Application
Proof of National Insurance Number	New and Renewal Application
Proof of right to live and work in the UK. Suitable documents that are required are available at: https://www.gov.uk/government/publications/licensing-authority-guide-to-right-to-work-checks	New and Renewal Application

6. DBS Checks

- 6.1** All new applicants are to provide a completed Enhanced DBS Disclosure Application when they have successfully passed the Street Knowledge Test and register for the DBS Update Service upon receipt of their Certificate, which will be sent to them by the DBS and give the Council ongoing permission and the information required to check the status of their certificate every six months or otherwise as considered appropriate.

- 6.1.1** All existing drivers who are not already registered with the DBS Update Service must, upon application for the renewal of their drivers' licence provide a current (less than 3 months old at the date of application) Enhanced DBS Disclosure Certificate, register for the DBS Update Service and give the Council ongoing permission and the information required to check the status of their certificate every six months or otherwise as considered necessary.
- 6.1.2** Once a driver has registered for the Update Service, they must remain registered, and give the Council permission to check the status of their certificate as considered necessary, for the duration of their time as a licensed driver with the Council.
- 6.1.3** Anyone who fails to register for the Update Service or maintain continuous registration as required will be subject to enforcement action, including suspension until such times as the situation has been rectified to the Council's satisfaction i.e. until they have applied for a further Enhanced DBS check through the Council at their own expense in order that they can apply/reapply to join the Update Service within the required timescales as set out by the DBS.
- 6.1.4** The Council will check on the status of a drivers' DBS certificate via the Update Service as part of the renewal application process, at six monthly intervals thereafter and at any other time considered appropriate during the validity of that person's licence.
- 6.1.5** Where a status check reveals that the individual's certificate remains current, that person's criminal record check will ordinarily be deemed as satisfactory.
- 6.1.6** Where a status check reveals that the individual's certificate is no longer current, that person's criminal records check will be deemed as unsatisfactory, they may be subject to enforcement intervention, and they will need to apply for a new Enhanced DBS check through the Council and provide their Certificate to the Council.
- 6.1.7** Details of how to sign up to the Update Service can be found on the GOV.UK website. <https://www.gov.uk/guidance/digital-and-online-services#update-service>
Applicants are responsible for paying all fees.
- 6.1.8** The council may, at any point throughout the duration of this Policy, specify (by way of updating the relevant sections on its website) the way in which applicants can/must apply for their DBS certificates (e.g., via a 3rd party). Applicants will continue to be responsible for all costs associated with this.
- 6.1.9** Licences will not normally be issued until such times as the Council has sight of a satisfactory returned DBS check. However, Swale Council may issue temporary badges as a result of the long turn round time within the DBS service in returning some checks. The issue of a temporary badge will be considered on a case by case basis and only where a certificate or the update service has been checked within the last 12 months.
- 6.1.10** The licence 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 and relevant information is later revealed on a disclosure certificate, then that licence will be subject to review.

- 6.1.11** The Council is bound by rules of confidentiality and will not divulge information obtained to any third parties (except Councillors at Sub/Committee Meetings). The applicant for a DBS check will be sent a certificate to their home address (if using the paper version).
- 6.1.12** The Council recognises that there are occasions when requiring a DBS Certificate from an applicant will not achieve its original aim, for example, where the DBS are unlikely to have any information recorded against them due to the short period of time that they have resided in this country.
- 6.1.13** The Council therefore requires that all overseas applicants who have resided in this country for less than five years obtain a Certificate of Good Conduct from their relevant embassy or consulate, at the applicant's expense, authenticated, translated and sealed by the embassy or consulate.
- 6.1.14** No Disclosure and Barring Service checks from any other Authority will be accepted. This Council is a registered DBS body and has a robust system for checking applicants and their documentation and only checks made by this council will be accepted, unless the applicant has an Update Service Certificate which is in date.
- 6.1.15** The applicant will be responsible for payment of the appropriate fee.

Tax Checks

- 7.1** From 4 April 2022 first-time applicants for licensing will need to confirm on their application form that they have read the HMRC guidance regarding being properly registered <https://www.gov.uk/guidance/changes-for-taxi-private-hire-or-scrap-metal-licence-applications-from-april-2022>
- 7.2** From 4 April 2022 all applicants who are:
- a) renewing a licence
 - b) applying for the same type of licence they previously held, that ceased to be valid less than a year ago
 - c) applying for the same type of licence they already hold with another licensing authority
- must obtain a 9-character tax check code and provide this to the council so that it can be confirmed that they are registered with HMRC. The council can only confirm that the tax check has been conducted and no financial details will be revealed to them.

8. Private Hire Operator's

- 8.1** The applicant will complete, in full, the application form
- 8.2** The following documentation must be provided to taxis@swale.gov.uk to validate the application:
- a) Proof of public liability insurance for £5,000,000
 - b) Basic certificate from for each person named on the application form if applicant is not a licensed driver with Swale Borough Council.
 - c) A list of vehicle(s) and driver(s).

8.3 The appropriate fee must be paid,

9. Applications general

- 9.1** If the application form contains any details to suggest that any relevant offence, conviction, prosecution 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. Penalty points will be imposed in line with **APPENDIX H** if a conviction, prosecution or caution is disclosed which had not been notified to the licensing team previously.
- 9.2** At that time it will be decided whether the application is likely to be successful in the light of the Council's Policy of the Relevance of Offence, conviction, prosecution or cautions, either by approval by authorised officers, or by reference to the Licensing Sub Committee.
- 9.3** If an application is refused no refund will be issued.
- 9.4** Applicants will be issued with a paper licence and also a driver's badge which shall remain the property of the Council and must be surrendered when the driver ceases to work as a licensed driver.
- 9.5** Failure to renew the licence before the expiry date will result in the driver being treated as if they were a new applicant. However, the applicant will only be required to re-sit the Street Knowledge Test, if a period of two years or more has elapsed since the date of expiry from the last licence.

APPENDIX D**GUIDELINES RELATING TO THE RELEVANCE OF PREVIOUS CONVICTIONS, OFFENCES, PROSECUTIONS AND CAUTIONS****1 General Policy**

- 1.1 The purpose of this appendix is to provide guidance on the criteria taken into account by the council when determining whether or not an applicant or an existing licence holder is a fit and proper person to hold a hackney carriage and/or private hire driver licence and/or private hire operator licence in relation to convictions.
- 1.2 Applicants and existing licensed drivers should note that they must be, and remain, a fit and proper person at all times; not only when they are acting in the capacity as a licensed driver.
- 1.3 The onus is on the applicant to demonstrate that they meet this requirement; not on the council to demonstrate that the applicant does not.
- 1.4 In the absence of a judicially approved definition of 'fit and proper', the council will apply the test of:

Without any prejudice, and based on the information before you, would you allow a person for whom you care, regardless of their condition, to travel alone in a vehicle driven by this person at any time of day or night?

The wording of this test originates from the national standards.

- 1.5 All decisions on the suitability of an applicant or licensee can take into consideration conduct that has not resulted in a criminal conviction and will be made on the balance of probability. Applicants and licence holders will not be 'given the benefit of doubt'.
- 1.6 If, on the balance of probabilities, the answer to the question set out in 1.4 is 'no', then the council will ordinarily take the view that the individual should not hold a licence.
- 1.7 The overriding consideration is the safety of the public. In accordance with the cases of *McCool v Rushcliffe Borough Council* and *Leeds City Council v Hussain*, the council will therefore expect applicants and existing licence holders alike to demonstrate, "...that they are safe drivers with good driving records and adequate experience, sober, mentally and physically fit, honest and not persons who would take advantage of their employment to abuse or assault passengers," as part of its assessment of fitness and propriety.
- 1.8 In addition, the council will want to be satisfied that a licensed driver/operator will not defraud, discriminate against or otherwise act inappropriately towards or in front of their customers, i.e. the public.
- 1.9 It should be borne in mind that drivers may carry vulnerable members of public

such as unaccompanied children; disabled people; elderly people; people who are incapacitated from alcohol or other substances, lone people and foreign visitors or others with communication difficulties.

- 1.10** If a court has found an applicant guilty of an offence, that person cannot subsequently claim to the council that they did not commit the offence. If they seek to do so, their representation will not be considered as this is entirely a matter for the courts.
- 1.11** In making its decision the council will consider, amongst other matters, the nature/class of any offence, how long ago it occurred and the applicants' age at that time, the apparent seriousness as gauged by the penalty imposed, and any other factors which the council may consider to be relevant.
- 1.12** A person with a current offence, conviction, prosecution or caution for a serious crime need not be permanently barred from obtaining a licence but should be expected to
- (a) remain free of offence, conviction, prosecution or caution for an appropriate period and
 - (b) show adequate evidence of good character from the time of the offence, conviction, prosecution or caution.
- Simply remaining free of offence, conviction, prosecution or caution will not generally be regarded as sufficient evidence of good character. For example, a continuous course of conduct which shows cause for concern.
- 1.13** Some discretion may be appropriate if the offence is isolated and there are mitigating circumstances that the applicant wishes to be taken into account. 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.
- 1.14** Since it is not practicable to make reference to every offence, the following examples afford a general guide on the action which might be taken where offence, conviction, prosecution or cautions are disclosed.

2 Existing Drivers

- 2.1** Any existing licence holder convicted of an offence during the period of their current licence will be subject to this policy relating to the relevance of convictions. In circumstances where a new applicant would normally have their licence refused, an existing licence holder would normally have their licence revoked.
- 2.2** Licensed drivers and operators who are convicted of any criminal or motoring offence during the period covered by their licence, must disclose the conviction and the penalty involved to the council in writing within 14 days of the conviction(s). For these purposes, any offence resulting in the acceptance of a fixed penalty notice will be considered to be a conviction. The exception to this is a parking ticket, which is in fact a penalty charge notice.

3 Revocation

- 3.1** Where the council believes that, based on information available at that time, that on the balance of probability it is considered that a driver presents a risk to public safety it can decide to immediately revoke a drivers' licence pending any investigation regardless of whether criminal charges are brought.
- 3.2** Where a licence holder has been referred to the relevant Committee/Sub-committee because he/she has been convicted of a serious criminal offence or has accumulated 12 penalty points or more under the Authority's penalty points system, the Committee/Sub-committee may order the revocation of the licence.

4 Refusal to Renew

- 4.1** As an alternative to revocation the Licensing Sub Committee 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.

5 National Register of Taxi Licence Revocations and Refusals (NR3)

- 5.1** In the event that a licence is refused or revoked the council will enter details on the National Register of Taxi Licence Revocations and Refusals as set out in **Appendix K**.

6 Crimes resulting in death

- 6.1** 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.

7 Exploitation

- 7.1** 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.

8 Offences involving violence against the person

- 8.1** Where an applicant has a conviction for an offence against the person, or connected with any offence of violence, a licence will not be granted until at least 10 years have elapsed since the completion of any sentence imposed.

9 Possession of a weapon

- 9.1** Where an applicant has a conviction for possession of a weapon or any other weapon related offence, a licence will not be granted until at least seven years have elapsed since the completion of any sentence imposed.

10 Sexual Offences

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

11 Dishonesty

- 11.1** Where an applicant has a conviction for any offence where dishonesty is an element of the offence, a licence will not be granted until at least seven years have elapsed since the completion of any sentence imposed.

12 Drugs

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

13 Discrimination

- 13.1** Where an applicant has a conviction involving or connected with discrimination in any form, a licence will not be granted until at least seven years have elapsed since the completion of any sentence imposed.

14 Motoring convictions

- 14.1** Hackney carriage and private hire drivers are professional drivers charged with the responsibility of carrying the public. It is accepted that offences can be committed unintentionally, and a single occurrence of a minor traffic offence would not prohibit the granting of a licence. However, applicants with multiple motoring convictions may indicate that an applicant does not exhibit the behaviours of a safe road user and one that is suitable to drive professionally.
- 14.2** Any motoring conviction while a licensed driver demonstrates that the licensee may not take their professional responsibilities seriously. However, it is accepted that offences can be committed unintentionally, and a single occurrence of a minor traffic offence may not necessitate the revocation of a taxi or private hire vehicle driver licence providing the authority consider that the licensee remains a fit and proper person to retain a licence.

15 Major Traffic Offences

- 15.1** An isolated offence, conviction, prosecution or caution, without disqualification, for an offence such as dangerous 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 offence, conviction, prosecution or caution is within 6 months prior to the date of the application the application will normally be refused.

- 15.2** More than one offence, conviction, prosecution or caution for this type of offence within the last 5 years is likely to merit refusal.
- 15.3** A list of offences to which this paragraph applies can be found at 25.1 of this Appendix.

16 Minor Traffic Offences

- 16.1** Isolated offence, conviction, prosecution or cautions for minor traffic offences should not prevent a person from proceeding with an application. However, the number, type and frequency of this 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 offence, conviction, prosecution or caution of at least 6 months.
- 16.2** In particular, an application will normally be refused where the applicant has more than 6 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 offence, conviction prosecution or caution for this type of offence within the last 6 months.
- 16.3** A list of offences to which this paragraph applies can be found at 25.2 of this Appendix.

17 Hybrid Traffic Offences

- 17.1** Offences of the type listed below in Section 25.3 and 25.4 of this Appendix, 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.

18 Disqualification

- 18.1** Where an applicant has been disqualified from driving because of a major traffic offence the application will generally be refused unless a period of 2 years free from offence, conviction, prosecution or caution has elapsed from the restoration of the DVLA licence.
- 18.2** Where several minor traffic offences have resulted in the applicant being disqualified from driving for a period of time this will normally be taken as reflecting seriously on the applicant's driving standard. Generally, a period of 12 months free from offence, conviction, prosecution or caution must have elapsed from the restoration of the DVLA licence.
- 18.3** In "totting-up" cases where disqualification is considered by the court, even if the court does not disqualify (e.g. because of exceptional circumstances) a driver is likely to be refused a driver's licence because different criteria apply and an applicant will

normally be expected to show a period of 12 months free from offence, conviction, prosecution or caution from the date the court made its finding of exceptional circumstances justifying the non-disqualification.

19 Drink driving/driving under the influence of drugs

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

20 Using a hand-held device whilst driving

- 20.1** Where an applicant has a conviction for using a hand-held 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.

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

- 21.1** One of the main purposes of the licensing regime set out in the Town Police Clauses Acts and Part II of the Local Government (Miscellaneous Provisions) Act 1976 ("the Acts") is to ensure the protection of the public. For this reason, a serious view is taken of offence, conviction, prosecution or cautions 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.
- 21.2** In particular, an applicant will normally be refused a licence where they have been convicted of an offence under the Acts at any time during the 6 months preceding the application or has more than one offence, conviction, prosecution or caution within

22 Notification of offences

- 22.1** Licence holders are required by this Authority to notify the Licensing Team within 48 hours of an arrest and release, charge or conviction of any sexual offence, any offence involving dishonesty or violence and any motoring offence. An arrest for any of the offences within this scope (with the exception of one-off minor traffic offences) will result in a review by this Authority as to whether the licence holder is fit to continue to hold a licence. This will not however be seen as a direction that a licence should be withdrawn; it is for the Licensing Authority to consider what, if any, action in terms of the licence should be taken based on the balance of probabilities.

23 Cautions and Endorsable Fixed Penalties

- 23.1** 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.

- 23.2** The possibility of rehabilitation and the length of time before rehabilitation occurs depends 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.
- 23.3** 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.
- 23.4** Although the Act does not prevent any determining authorities, including the Licensing Authority, from taking spent offence, conviction, prosecution or cautions into account, such offence, conviction, prosecution or cautions 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.
- 23.5** The determination as to whether certain offence, conviction, prosecution or cautions are spent, therefore, may be a relevant exercise.
- 23.6** 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
- 24 The Rehabilitation Period of Sentences** - The below rehabilitation periods align with government legislation that came into force on 28 October 2023.

Sentence/disposal	Rehabilitation Period	
	Adults (18 or over when convicted)	Young Persons (under 18 when convicted)
Sentence of imprisonment for life Sentence of imprisonment, youth custody, detention in a young offender institution or corrective training over four years for a schedule 18 offence Sentence of preventive detention Sentence of detention at His Majesty's pleasure Sentence of custody for life	These sentences are excluded from rehabilitation and so will always be disclosed	

<p>Public protection sentences*</p> <p>(imprisonment for public protection, detention for public protection, extended sentences of imprisonment or detention for public protection and extended determinate sentences for dangerous offenders)</p> <p>*A public protection sentence (the provisions for which are set out in Part 12 of the Criminal Justice Act 2003 and Part 8 of the Armed Forces Act 2006 means a sentence of imprisonment or detention, as detailed above, imposed for specified sexual and violent offences</p>		
More than 4 years (not for a schedule 18 offence)	Years beginning with the day On which the sentence (including any licence period) is completed	Months beginning with the day on which the sentence (including any licence period) is completed
A custodial sentence* of more than 1 year and up to, or consisting of, 4 years	The end of the period of 4 years beginning with the day on which the sentence (including any licence period) is completed	The end of the period of 2 years beginning with the day on which the sentence (including any licence period) is completed
Removal from His Majesty's service	The end of the period of 12 months beginning with the date of the conviction in respect of which the when convicted or disposal administered	The end of the period of 6 months beginning with the date of the conviction in respect of which the when convicted or disposal administered
A sentence of service detention	The end of the period of 12 months beginning with the day on which the sentence is completed	The end of the period of 6 months beginning with the day on which the sentence is completed
A severe reprimand or reprimand under the Armed Forces Act 2006	The end of the period of 12 months beginning with the date of the conviction in respect of which the sentence is imposed	The end of the period of 6 months beginning with the date of the conviction in respect of which the sentence is imposed

Driving endorsements	5 years from the date of conviction	2 years 6 months from the date of conviction
Driving disqualification	When the period of the disqualification has passed	When the period of the disqualification has passed
Simple caution, youth caution**	Spent immediately	Spent immediately
Conditional caution, youth conditional caution, diversionary caution **	3 months or when caution ceases to when convicted or disposal administered	3 months or when caution ceases to when convicted or disposal administered
A fine	The end of the period of 12 months beginning with the date of the conviction in respect of which the sentence is imposed	The end of the period of 6 months beginning with the date of the conviction in respect of which the sentence is imposed
A compensation order	The date on which the payment is made in full	The date on which the payment is made in full
Absolute discharge	Spent immediately	Spent immediately
Relevant orders*** (orders that impose a disqualification, disability, prohibition or other penalty)	The end date given by the order or, if no date given, 2 years from the date of conviction unless the order states 'unlimited', 'indefinitely' or 'until further order' as in these cases it will remain unspent	The end date given by the order or, if no date given, 2 years from the date of conviction unless the order states 'unlimited', 'indefinitely' or 'until further order' as in these cases it will remain unspent

*Suspended custodial sentences are treated the same as custodial sentences for this purpose. It will be the length of the sentence imposed by the court, not the period it is suspended for that dictates when it will become spent.

**Diversionary cautions and community cautions were introduced under the PCSC Act 2022 and are due to come into force in 2024.

***Relevant orders include:

- a) community and youth rehabilitation orders,
- b) conditional discharge orders,
- c) hospital orders,
- d) bind overs,
- e) referral orders,
- f) care orders, and
- g) earlier statutory orders and
- h) any order imposing a disqualification, disability, prohibition, penalty, requirement or restriction, or is otherwise intended to regulate the behaviour of the person convicted.

The periods of time which must elapse before the conviction becomes 'spent' may vary according to the circumstances of the individual and the offence. The rehabilitation period, may for example, be extended by the commission of further offences during the rehabilitation period. Further information is available from the Government guidance on the Rehabilitation of Offenders Act, available at www.justice.gov.uk/offenders/rehabilitation-of-offenders-act

25 Relevant Previous Convictions

25.1 Major Traffic Offences

- 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
- 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
- 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. IN16 becomes IN16)

25.2 Minor Traffic Offences

- MS10 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. PC16 becomes PC16)

25.3 Hybrid Traffic Offences

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

CU50 Causing or likely to cause danger by reason of load or passengers

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 becomes 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)

APPENDIX E**DRIVER KNOWLEDGE TESTS****1. Introduction**

- 1.1 In order to maintain the high standards, the Council expects of its licensed drivers operating within the Borough, all new applicants who are applying for a Swale Borough Council drivers' licence are required to pass a Knowledge Test.
- 1.2 Before an individual applies to sit the Street Knowledge Test, they should be satisfied that they can fulfil all other Council requirements to become a licensed driver.
- 1.3 An applicant may take the full 50 question test 3 times, if they do not pass after the third attempt or achieve a high enough result to be eligible for a partial test, or a telephone test they must wait 6 months before applying to sit the test again. A waiting list is in place and places are allocated on a 'first come first served basis.
- 1.4 All questions are held on a data base and selected at random; therefore, no test paper will ever be the same as any other and there are no specimen tests for view or study.
- 1.5 Any person found cheating will be disqualified from the test and another application will not be accepted for a period of two years.
- 1.6 Knowledge Tests will normally be held once a month. If there is high demand for the Knowledge Test, additional tests may be arranged but this will be at the discretion of the Licensing Team Leader
- 1.7 An applicant will only be eligible to sit the test following them submitting a completed application form, proof of Right to Work in the UK and the relevant payment which must be submitted to the Licensing Department.
- 1.8 The outcome and decision made by the authorised officer regarding a Knowledge Test is final. Appeals can only be made in exceptional circumstances where the results will be considered by the Community Services Manager.
- 1.9 Applicants will not be permitted to use any additional resources when sitting the test.

2. The Knowledge Test

- 2.1 The test will consist of these sections:
 - a) Section A: Questions requiring the shortest route by distance between a pick-up point and destination in a specific area.
 - b) Section B: Questions relating to the locations of prominent buildings, such as schools, churches, hotels, public houses, restaurants, and places of interest.
 - c) Section C: Multiple choice questions relating to road signs found in the Highway Code

- d) Section D: Multiple choice questions relating to the Highway Code
 - e) Section E: Multiple choice questions relating to applicants' knowledge and understating of the law in respect of hackney carriage and private hire licensing.
 - f) Section F: Multiple choice questions relating to applicants' knowledge and of Swale Borough Council's Local Policy.
 - g) Section G: Multiple choice questions relating to applicants' knowledge and understating of safeguarding vulnerable adults and children. A PowerPoint presentation is provided to candidates when they first apply and will be shown prior to the test beginning to demonstrate to applicants what is expected of them.
 - h) Section H: Multiple choice questions relating to basic arithmetic when handling customer's money.
- 2.2** The test lasts 90 minutes and consists of 50 questions. Applicants are strongly advised to thoroughly revise prior to sitting the test as many candidates fail on several sections which seems to suggest lack of preparation.
- 2.3** Each element of the test must achieve the required pass mark. If applying for a Private Hire only licence, then the applicant will have a reduced pass rate on Section A and B as outlined in the table below.

Street Knowledge Test Sections	Minimum Percentage		
	Dual Applicants	Private Hire Only Applicants	Restricted Private Hire only applicants
Questions requiring the shortest route by distance between a pick-up point and destination in a specific area. i.e. Faversham, Sittingbourne or Isle of Sheppey	80%	60%	Not applicable
Questions relating to the locations of prominent buildings, such as schools, churches, hotels, public houses, restaurants, and places of interest	80%	60%	Not applicable
Questions relating to Road Signs of the Highway Code	80%	80%	80%
Questions relating to the Highway Code	80%	80%	80%
Questions relating to applicants' knowledge and understating of the law in respect of hackney carriage and private hire licensing	80%	80%	80%
Questions relating to applicants' knowledge and of Swale Borough Council's Local Policy	80%	80%	80%
Safeguarding of vulnerable adults and children	100%	100%	100%
Basic numeracy	80%	80%	80%

2.4 Partial and Telephone Tests

- 2.4.1** If a candidate achieves a pass mark in 5 or more sections of the test but has failed to answer correctly more than 1 question in each of the remaining sections, they will be invited to sit a partial test for those sections.
- 2.4.2** If a candidate achieves a pass mark in 5 or more sections of the test but has failed to answer correctly just 1 question in each of the remaining sections, they will be invited to undertake a telephone for those sections.
- 2.4.3** It is recommended that an individual should not obtain a Disclosure and Barring Service Enhanced Check or a medical until they pass the Knowledge Test. If an applicant completes an Enhanced DBS Check or medical before they have successfully passed the Knowledge Test, they should immediately join the DBS Update Service or they may be required to provide an updated document before their licence is issued, the final decision will be with the Licensing Team Leader.

APPENDIX F**PRIVATE HIRE DRIVER'S LICENCE CONDITIONS****1. Conduct of Driver**

- 1.1. The holder of a driver's licence (hereafter known in this Appendix as the driver) shall comply with the following conditions, which should be read in conjunction with the Code of Conduct set out in **APPENDIX H**.
- 1.2. The driver shall be respectably dressed, clean and tidy in appearance at all times whilst his vehicle is being made available for hire.
- 1.3. The driver shall at all times, when acting in accordance with the drivers licence granted to him, wear such badge as supplied by the Council in such position and manner as to be plainly and distinctly visible at all times.
- 1.4. The driver shall not lend the badge to any other person or cause or permit any other person to wear it.
- 1.5. All licences, badges and plates remain the property of the Council at all times. They must be returned forthwith when employment as a licensed driver ceases, the licence expires or is not renewed, or where the licence is suspended or revoked.
- 1.6. The driver shall behave in a civil, polite and orderly manner and shall take all reasonable precautions to ensure the safety of persons conveyed in, or entering or alighting from, the vehicle.
- 1.7. The driver shall not wilfully or negligently cause or permit the vehicle licence plate to be concealed from public view, or allow the licence plate to be so defaced as to make any figure or information illegible.
- 1.8. The driver who has agreed to, or has been hired to, be in attendance with the vehicle at an appointed time and place shall, unless delayed or prevented by some sufficient cause, punctually attend with such vehicle as such appointed time and place.
- 1.9. The driver when hired to drive to a particular destination shall proceed to that destination by the shortest available route.
- 1.10. The driver shall not convey, or permit to be conveyed, in such vehicle any greater number of persons than the number of persons specified on the vehicle licence.
- 1.11. The driver shall convey a reasonable amount of luggage and afford reasonable assistance in loading and unloading luggage.
- 1.12. The driver must not solicit, by calling out or otherwise harass, 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 pre-booking.

- 1.13** The vehicle shall be presented in a clean and tidy condition for each journey.
- 1.14** The private hire vehicle must only be driven with the consent of the proprietor of the vehicle.
- 1.15** The driver must not drink or eat in the vehicle whilst in the presence of customers.
- 1.16** The driver must comply with any hirer's request not to play any radio or sound equipment which is not connected with the operation of the business.
- 1.17** The driver must ensure that the noise emitted from any sound equipment in the vehicle does not cause annoyance to any persons, whether inside or outside the vehicle.
- 1.18** The driver shall not operate the horn late at night as a means of signalling that the vehicle has arrived.
- 1.19** The drivers 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.
- 1.20** Drivers must not use a mobile phone whilst driving unless it is designed for hand-free operation.
- 1.21** Any change affecting the licence must be notified to the Council. Notification should be as soon as reasonably practicable and in any event, no later than seven days after the change was effected.
- 1.22** If the driver is convicted or bound over for any offence, they shall within 7 days give details in writing of the offence, conviction, prosecution or caution or binding over to the Council.
- 1.23** 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.
- 1.24** 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.
- 1.25** The private hire driver's licence must be presented to the proprietor concerned at the beginning of the employment.
- 1.26** 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:
 - a) The safety, performance or appearance of the vehicle
 - b) 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.
- 1.27** A driver must carry assistance dogs when required. Assistance dogs include guide dogs for the blind or partially sighted, hearing dogs for the hard of hearing, and other

assistance dogs which assist disabled people with a physical impairment. Any driver with a medical condition, which may be exacerbated by dogs, may apply for exemption from this condition. On production of suitable medical evidence, a certificate of exemption will be issued which must be carried in the vehicle at all times. Unless the certificate of exemption is available in the vehicle, the exemption will not apply.

2. Medical Fitness of Driver

2.1 The driver of a private hire vehicle must at any time, or at such intervals as the Council may reasonably require, produce a certificate issued by the drivers own GP or someone with access to their medical records to the effect that they are, or continue to be, physically fit to be a driver of a private hire vehicle.

2.2 The driver must cease driving any private hire vehicle and contact the Council immediately if they know of any medical condition which may affect their:

- a) Driving ability
- b) The health and safety of themselves or any passengers.

3. Fares and Journeys

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

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

3.3 If the vehicle is fitted with a taximeter, then the driver of a private hire vehicle must:

- a) Unless the hirer expresses at the commencement of the journey their desire to engage by time, bring the meter into operation at the commencement of the journey, and bring the machinery of the taxi-meter into action by moving the said key, flag or other device, before beginning a journey and keep the machinery of the taxi-meter in action until the termination of the hiring.
- b) When standing, 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.
- c) Cause the dial of the taxi-meter to be kept properly illuminated throughout any part of the hiring which is during the hours of darkness as defined for the purposes of the Road Traffic Act 1972, and also at any other time at the request of the hirer.
- d) Not demand from any hirer of a private hire vehicle a fare in excess of any previously agreed for that hiring between the hirer and the operator or, if the vehicle is fitted with a fare meter, the fare shown on the face of the taxi-meter.

3.4 In the event of a journey commencing in but ending outside the Borough of Swale there may be charged, for the journey, such fare or rate (if any) as was agreed before the hiring was effected. If no such agreement was made then the fare to be charged should be no greater than that determined by the taxi-meter.

4 Wheelchair Accessible Vehicles

4.1 All drivers of wheelchair accessible vehicles must:

- a) Be fully conversant with the correct method of operation of all ramps, lifts and wheelchair restraints fitted to the vehicle.
- b) 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.
- c) 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 1986.

5. Conditions Applicable to Restricted Private Hire Drivers

- 5.1** The holder of a restricted private hire driver's licence shall comply with the above listed conditions 1 to 4 with the exception of condition 3.3 relating to the use of a taxi meter. Conditions 1 to 4 should be read in conjunction with the Code of Conduct set out in **APPENDIX H**.
- 5.2** Restricted private hire drivers are only licenced to drive Swale licenced restricted private hire vehicles and in accordance with the conditions imposed on a restricted private hire vehicle.
- 5.3** Applications for new and renewal restricted private hire driver licences must be followed by evidence of a. contract for client transportation services between a Swale licenced private hire operator and the Local Authority or a written agreement with Swale Borough Council Licensing for specialised executive car hire before the driver may commence work as a licenced restricted private hire driver.
- 5.4** To ensure continued compliance with condition 5.3 restricted private hire badges will be issued for one year and require evidence of the continuation of a contract with the Local Authority for client transportation services or written agreement with Swale Borough Council Licensing for specialised executive car hire. Where the driver is under 65 years of age the driver will only need to provide a new medical every 3 years.

APPENDIX G**PENALTY POINTS SYSTEM**

1. The details of how the scheme will be operated are as follows:
 - 1.1 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.
 - 1.2 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.
 - 1.3 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.
 - 1.4 When issued, the penalty points will remain "live" for a rolling period of 36 months from the date they were imposed.
 - 1.5 There is no financial penalty associated with the system, and the licensee may continue to work. However, if 12 penalty points are imposed on an individual licence in any one 36 month rolling period, the driver will appear in front of the Licensing Sub- Committee where appropriate action will be taken in accordance with this policy.
 - 1.6 Where a driver, proprietor or operator attains more than 12 penalty points, disciplinary options available to the Licensing Sub-Committee will include warning, suspension or revocation of the driver's licence, where appropriate.
 - 1.7 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.
 - 1.8 The Licensing Sub-Committee may also require that a driver undertake additional training in order to maintain their licence. Any additional training will be at the drivers' expense. The Licensing Sub-Committee may also suspend a licence until such times as a driver successfully completes such training.
 - 1.9 Periods of suspension of a licence will be dependent on the nature of the breaches of the legislation or the requirements of this Policy and the compliance history of the licence holder.
 - 1.10 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.
 - 1.11 Any driver, vehicle, proprietor or operator subject to suspension has the right of appeal to the Magistrates Court against the suspension. Suspensions will normally be subject to a 21-day appeals period prior to implementation to allow for the formal

appeals process, except where the relevant legislation allows for a suspension to take place with immediate effect.

- 1.12** Any driver, vehicle, proprietor or operator subject to revocation has the right of appeal to the Magistrates Court against the revocation. Revocation of the licence will take place with immediate effect.
- 1.13** 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.
- 1.14** 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.
- 1.15** Any penalty points issued to a driver or operator have the right of appeal which must be made in writing to the Community Safety Manager within 21 days of receipt of notification.

2. Penalty Points Tariff

2.1 Legislative offences and penalties

Two statutes principally create offences relating to hackney carriages and private hire vehicles, the offences are set out below under the relevant statute –

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

Town Police Clauses Act 1847	
Section	Offence
Maximum Penalty Points 2-5	
44	Failure to notify change of address on a hackney carriage licence
47	Lending or parting with a hackney carriage driver's licence
62	Driver leaving a hackney carriage unattended on the rank
64	Hackney carriage driver obstructing other hackney carriages
Maximum Penalty Points 6-9	
48	Failure of a proprietor to hold and produce a hackney carriage driver's licence
52	Failure to display a hackney carriage plate
56	Travelling less than the lawful distance for an agreed fare
57	Failure to wait after a deposit to wait has been paid
59	Carrying persons other than with the consent of the hirer
Maximum Penalty Points 10-12	
40	Giving false information on a hackney carriage licence application
45	Plying for hire without a hackney carriage licence
47	Driving a hackney carriage without a hackney carriage driver's licence
47	Hackney carriage proprietor employing an unlicensed driver
53	Refusal to take a fare without a reasonable excuse
54	Charging more than the agreed fare
55	Obtaining more than the legal fare (including failure to refund)
58	Charging more than the legal fare

60	Driving a hackney carriage without the proprietor's consent
60	Allowing a person to drive a hackney carriage without the proprietor's consent

Local Government (Miscellaneous Provision) Act 1976	
Section	Offence
Maximum Penalty Points 2-5	
49	Failure to notify the transfer of a vehicle licence
50(2)	Failure to inform the Council where a hackney carriage or private hire vehicle is stored, if requested
56(4)	Failure of a private hire operator to produce their licence upon request
Maximum Penalty Points 6-9	
48(6)	Failure to display a private hire vehicle plate
50(3)	Failure to report an accident to the Council within seventy two hours
53(3)	Failure to produce a driver's licence upon request
54(2)	Failure to wear a private hire driver's badge
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
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
64	Permitting any vehicle other than a hackney carriage to wait on a hackney carriage rank
Maximum Penalty Points 10-12	
46(1)(a)	Using an unlicensed private hire vehicle
46(1)(b)	Driving a private hire vehicle without a private hire driver's licence
46(1)(c)	Proprietor of a private hire vehicle using an unlicensed driver
46(1)(d)	Operating a private hire vehicle without a private hire operators' licence
46(1)(e)	Operating a private hire vehicle when the driver is not licensed as a private hire driver
46(1)(e)	Operating a vehicle as a private hire vehicle when the vehicle is not licensed as a private hire vehicle
50(1)	Failure to present a hackney carriage or private hire vehicle for inspection upon request
50(4)	Failure to produce the vehicle and insurance upon request
57	Making a false statement or withholding information to obtain a hackney carriage private hire driver's licence
58(2)	Failure to return a plate after notice has been given following expiry, revocation, or suspension of a hackney carriage or private hire vehicle licence
61(2)	Failure to surrender a driver's licence after suspension, revocation, or refusal to renew
66	Charging more than the meter fare for a journey ending outside the District, without prior agreement
67	Charging more than the meter fare when a hackney carriage is used as a private hire vehicle
69	Unnecessarily prolonging a journey
71	Interfering with a taxi-meter with intent to mislead
73(1)(a)	Obstruction of an authorised officer of the Council or a police officer

73(1)(b)	Failure to comply with a requirement of an authorised officer of the Council or a police officer
73(1)(c)	Failure to give information or assistance to an authorised officer of the Council or police officer

2.2 Hackney Carriage and Private Hire Licensing Policy

Swale Borough Council's Hackney Carriage and Private Hire Licensing Policy	
Offence	
Maximum Penalty Points 2-5	
Displaying a sign or advertisement on a licensed vehicle that does not satisfy the policy requirements or has not been approved by the Council	
Failure to give reasonable assistance with passenger's luggage	
Operating/using a vehicle that is not clean and tidy and in a safe condition internally or externally	
Failure to notify the Council of any amendment to the details of a licence within fourteen days	
Failure to notify within seven days of starting or terminating employment, the name and address of the proprietor and the term of employment	
Failure of a private hire operator to ensure that office staff act in a civil and courteous manner at all times	
Failure of a private hire operator to keep the operating premises in accordance with council requirements	
Failure to observe rank discipline e.g. failure to move up	
Failure to have a working hackney carriage roof light that is lit when available for hire	
Failure to display the current fare chart so that it is clearly visible to passengers	
Failure to keep a copy of a valid insurance certificate in the vehicle	
Failure to display door logos (to the required measurements) on the exterior of the two front doors of the vehicle	
Display of flags and other promotional material	
Failure to adhere to dress code	
Failure to attend on time for a pre-arranged booking without reasonable cause	
Drinking or eating in the vehicle whilst carrying passengers	
Causing excessive noise from any radio or sound-reproducing equipment	
Sounding the horn to signal that the vehicle has arrived disturbing residents	
Failure to notify the Council of DVLA penalty points within 14 days	
Failure to provide a receipt for a fare when requested	
Carrying radio equipment or similar devices not in accordance with council requirements	
Maximum Penalty Points 6-9	
Failure to wear a driver's badge	
Concealing or defacing a vehicle licence plate	
Failure to display or maintain external plates as issued by the Council or displaying them incorrectly e.g. in the window of a vehicle	
Failure to display or maintain Internal plates as issued by the Council or displaying them incorrectly e.g. near the driver side	
Failure to proceed with all reasonable speed to the next available rank	
Modifying a vehicle without the consent of the Council	
Failure to adhere to the Code of Good Conduct for Licensed Drivers where not	

mentioned below
Smoking or prevent smoking in the vehicle at any time this includes vaping and e-cigarettes
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
Allowing a hackney carriage vehicle to stand in a position, not being a hackney carriage stand, to suggest that is plying for hire
Failure to comply with requirements for the safe carrying of a wheelchair
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
Using a taxi-meter that does not conform to Council requirements
Waiting or stopping on a double yellow line or a bus stop
Failure to produce a licence upon request
Failure to report an accident within seventy-two hours
Failure to show a private hire driver's licence to the private hire operator at the commencement of employment
Failure of a private hire operator to request and/or record details of a private hire driver's licence at the beginning of employment
Maximum Penalty Points 10-12
Failure to ensure the safety of passengers
Private hire soliciting for hire or accepting a fare that is not pre-booked
Using a non-hands free mobile telephone whilst driving
Failure to advise of a relevant medical condition
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
Failure to surrender a driver's licence, badge or plate upon request
Failure of a licence holder to disclose offence, conviction, prosecution or cautions within seven days
Failure to notify the Licensing Team within 48 hours of an arrest and release, charge or conviction of any sexual offence, any offence involving dishonesty or violence and any motoring offence
Operating/using a vehicle which is not maintained in a sound and roadworthy condition
Affixing or displaying a roof sign on a private hire vehicle
Driving with no insurance or inadequate insurance for the vehicle
Permitting the vehicle to be used for any illegal or immoral purposes
Failure of a private hire operator to ensure that all vehicles operated by him are adequately insured
Failure of a private hire operator to obtain public liability insurance for the operating premises if the public are allowed access
Failure to produce a valid certificate of compliance every 6 months upon request of an authorised officer
Carrying an offensive weapon in the vehicle including imitation firearms
Unsatisfactory behaviour or conduct of a driver including failing to behave in a civil and orderly manner to both the public, authorised officers or to other drivers
Any other transgression not contained within the penalty points system which in the opinion of an authorised officer should have penalty points imposed
Conveying a greater number of passengers than permitted
Driving without the consent of the proprietor
Failure to notify, a change in medical circumstances
A licensed vehicle with a defective tyre
Driving a standard private hire vehicle when licenced as a restricted private hire only

driver
Permitting the use of a restricted private hire vehicle for work other than the contract work permitted by the licence

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APPENDIX H**CODE OF GOOD CONDUCT FOR LICENSED DRIVERS**

1. In order to promote its licensing objectives as regards hackney carriage and private hire licensing, the Council has adopted the following Code of Good Conduct, which should be read in conjunction with the other statutory and policy requirements set out in this document.

- 1.1 Anything that serves to enhance the professional image of the hackney carriage and private hire trade and promotes the concept that drivers of licensed vehicles are vocational drivers is to be welcomed.

- 1.1.2 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.

2. **Responsibility to the Trade**

Licence holders shall endeavour to promote the image of the hackney carriage and private hire trade by:

- a) complying with this Code of Conduct
- b) complying with the Council's Hackney Carriage and Private Hire Licensing Policy
- c) behaving in a civil, orderly and responsible manner at all times.

3. **Responsibility to the public**

Licence holders shall:

- a) maintain their vehicles in a safe and satisfactory condition at all times
- b) keep their vehicles clean and suitable for hire to the public at all times
- c) attend punctually when undertaking pre-booked hiring
- d) assist, where necessary, passengers' ingress to and egress from vehicles
- e) offer passengers reasonable assistance with luggage or belongings

4. **Responsibility to Residents**

To avoid nuisance to residents when picking up or waiting for a fare, a driver shall:

- a) not sound the vehicle's horn illegally
- b) keep the volume of all audio equipment and two-way radios to a minimum
- c) switch off the engine if required to wait
- d) take whatever additional action is necessary to avoid disturbance to residents in the neighbourhood
- e) at hackney carriage ranks, in addition to the requirements above:
 - i) rank in an orderly manner and proceed along the rank in order and promptly
 - ii) remain in the vehicle
- f) at private hire offices:
 - i) not undertake servicing or repairs of vehicles

5. Dress Code

5.1 The dress code is smart and professional. Drivers are allowed to wear:

- a) Shirts
- b) Polo T-Shirts
- c) Smart T-shirts
- d) Plain tailored trousers
- e) Smart Jeans
- f) Three Quarter length trousers (plain tailored)
- g) Shoes/sandals
- h) Smart clean trainers
- i) Dresses with short or long sleeves
- j) Skirts
- k) Collarless blouses, jumpers and shirts

5.2 Items of clothing that are specifically not allowed:

- a) Tracksuit tops or bottoms
- b) Football shirts or shorts
- c) Combat style trousers
- d) Short skirts
- e) Clothing showing bare midriff
- f) Beach shorts
- g) Sleeveless tops
- h) Sleeveless vests
- i) Sleeveless dress
- j) Any other indecent clothing

6. General

Drivers shall:

- a) pay attention to personal hygiene, so as to present a professional image to the public
- b) be polite, helpful and fair to passengers
- c) drive with care and due consideration for other road users and pedestrians and, in particular, shall not use a hand held mobile phone whilst driving
- d) obey all Traffic Regulation Orders and directions at all time
- e) not smoke at any time when inside the vehicle. Smoking of E-Cigarettes, vapes or similar devices is not allowed.
- f) not consume alcohol immediately before, or at any time whilst driving or whilst in charge of a hackney carriage or private hire vehicle (any amount of alcohol can affect a drivers' judgement)
- g) not drive while having misused legal or illegal drugs (any amount of drugs can affect a drivers' judgement). If a driver properly uses prescription drugs that make him drowsy he should not drive
- h) fulfil their responsibility to ensure compliance with legislation regarding the length of working hours
- i) not eat in the vehicle in the presence of customers

ANY AMOUNT OF ALCOHOL OR DRUGS CAN AFFECT A DRIVER'S JUDGEMENT. THIS COUNCIL SHALL TAKE A VERY SERIOUS VIEW OF ANY DRIVER BEING FOUND TO HAVE HAD ANY ALCOHOL OR HAVING MISUSED ANY DRUGS WHILST IN CHARGE OF A LICENSED VEHICLE.

7. Disciplinary Hearings

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

- a) the driver has been convicted, since the grant of the licence, of an offence involving dishonesty, indecency or violence
- b) the driver has been convicted of an offence under any legislation relating to hackney carriage or private hire regulation
- c) the driver has breached any requirements of the Council's Hackney Carriage and Private Hire Licensing Policy
- d) there is a breach of condition of this code

APPENDIX I**PRIVATE HIRE OPERATOR'S LICENCE CONDITIONS****1. Standards of Service****1.1** The operator shall:

- a) Provide a prompt, efficient and reliable service to members of the public at all reasonable times.
- b) Ensure that their office staff act in a civil and courteous manner at all times to members of the public and council officers.
- c) Ensure that when a vehicle has been hired, it arrives punctually at the appointed place, unless delayed by unforeseen circumstances.
- d) Ensure that premises provided for the purpose of booking or waiting are kept clean and are adequately lit, heated and ventilated.
- e) Ensure that any waiting area provided has adequate seating facilities and telephone facilities are in good working order.
- f) Fulfil his responsibilities to ensure compliance with legislation regarding the length of working hours.

2. Records

- 2.1** Records, which must be kept by private hire operators under the Local Government (Miscellaneous Provisions) Act 1976, shall be kept in a non-erasable form in a suitable log or book, the pages of which are numbered consecutively. Where an operator sub-contracts a booking to a second operator both operators are obliged to keep the records in accordance with this appendix
- 2.2** All records shall be maintained by the operator and shall be kept for at least three years after entry and shall be produced for inspection, on request, by any authorised officer of the Council or any police officer.
- 2.3** The private hire operator's licence shall similarly be available for inspection upon request by any authorised officer of the Council or any police officer.
- 2.4** The operator shall, at all times keep a copy of these conditions at any premises used by him for a private hire business and shall make the same available for inspection by fare-paying passengers.

3. Bookings

- 3.1** Prior to each journey, the operator shall enter the following particulars of every booking of a private hire vehicle accepted, pursuant to section 56(2) of the Local Government (Miscellaneous Provisions) Act 1976, namely the:
 - a) Date of the booking
 - b) Name and address of the hirer
 - c) Time of pick-up
 - d) Address of the point of pick-up
 - e) Destination
 - f) Time at which a driver was allocated to the booking, plate number (or other identification) of the vehicle allocated and fare (if agreed between the operator and hirer at the time of booking).

- g) The name of the driver
- h) The vehicle registration number of the vehicle
- i) The name of any individual that responded to the booking request
- j) The name of any individual that dispatched the vehicle

4. Vehicles

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

- a) Type, make, model, colour and engine size of vehicles
- b) Year when the vehicle was first licensed for private hire
- c) Vehicle registration numbers
- d) Number of seats for passengers
- e) Owners of the vehicles
- f) Insurance details of vehicles
- g) Method of charging, i.e. whether or not a meter is fitted
- h) Private hire vehicle plate numbers

5. Insurance

- 5.1** The operator shall ensure that a certificate of motor insurance covers every private hire vehicle operated by him under the operator's licence, which is compliant with the Road Traffic Act 1988 as regards the carriage of passengers for hire or reward.
- 5.2** If the private hire operator has premises to which the public have access, in connection with the hiring of vehicles, he shall ensure that there is public liability insurance in force, which indemnifies him against any claim for loss, damage or personal injury by any person using the premises.
- 5.3** It is considered appropriate for a Licensing Authority to check that appropriate public liability insurance has been taken out for premises that are open to the public.
- 5.4** 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 license

6. Drivers

- 6.1** The operator shall keep records of the particulars of all drivers of private hire vehicles operated by him, pursuant to section 56(3) of the Local Government (Miscellaneous Provisions) Act 1976, namely:
- a) The names and addresses of drivers, and their call signs if any
 - b) Date any new driver begins service
 - c) Date when any drivers service ceases
 - d) Any change of address of any driver in service
 - e) Any illness, disability or condition which may affect the driver's ability to safely carry out their duties, if the operator becomes aware of any such condition
 - f) Expiry dates of drivers' badges and vehicle licences

7. Disclosure of Offence, conviction, prosecution or cautions

- 7.1** The operator shall, within seven days of offence, conviction, prosecution or caution, notify the Council in writing, of any offence, conviction, prosecution or caution or fixed penalty notice imposed on him during the period of duration of their operator's licence.
- 7.2** If the operator is a company or partnership, this requirement shall equally apply if any of the directors or partners receives a offence, conviction, prosecution or caution or fixed penalty notice.

8. Private Hire Drivers' Licences

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

9. Miscellaneous

- 9.1** If a licensed operator changes either their home or business address, he must, within seven days, give written notice to the Council specifying their new address.
- 9.2** The operator shall ensure that the licence plate issued and allocated by the Council is affixed to the outside of the vehicle in a position as approved by an authorised officer.
- 9.3** The operator shall ensure the licence plate is maintained in a clean and legible condition and shall inform the Council immediately if it becomes lost, broken or defaced.
- 9.4** To operate a private hire business from home, planning permission will normally be required. A private hire operator's licence will not be granted without evidence that either planning permission has been issued for the premises concerned, or planning permission is not required for the use proposed.
- 9.5** An operator's licence is liable to suspension or revocation on any of the following grounds:
- (a) Any offences under, or non-compliance with, the provisions of Part II, Local Government (Miscellaneous Provisions) Act 1976
 - (b) Any conduct on the part of the operator which appears to the council to render him unfit to hold an operator's licence.
 - (c) 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
 - (d) Any other reasonable cause
- 9.6** A private hire operator must ensure that every private hire vehicle is driven by a person who holds a Swale drivers licence

- 9.7** Both Private hire operator's licence and Private hire vehicle licence must be issued by the same Licensing Authority

10. Private Hire Operators Despatch Staff

- 10.1** The licence holder(s) must keep an up to date record of all members of staff included in taking bookings and dispatching vehicles.
- 10.2** All staff listed on the register referred to in 10.1 must provide the licence holder(s) with a Basic DBS check certificate that is less than 3 months old prior to taking bookings and dispatching vehicles.
- 10.3** The licence holder(s) must be able to provide evidence to the satisfaction of the council, upon request, that they have had sight of the Basic DBS check certificates referred to in 10.2 (although DBS certificates must not be retained) and record this, along with the date seen, in the register referred to in 10.1.
- 10.4** Should an employee cease to be on the register and later re-entered, a new basic DBS certificate should be requested
- 10.5** The licence holder(s) must have and apply a policy on employing ex-offenders in roles that would be on the register above. As with the threshold to obtaining a private hire vehicle operator's licence, those with a conviction for offences provided in Appendix E of this Policy, other than those relating to driving, may not be suitable to decide who is sent to carry a child or vulnerable adult unaccompanied in a car. The policy on employing ex-offenders should reflect this and be properly applied by the licence holder (s)

11 DBS checks

- 11.1** All new applicants must provide a completed Basic DBS Check Certificate at the point of their initial application, register with the DBS Update Service upon receipt of their certificate, which will be sent to them by the DBS, and give the Council ongoing permission and the information required to check the status of their certificate every year or otherwise as considered appropriate.
- 11.1.2** All existing operators who have not already registered with the DBS Update Service must provide a current (less than 3 months old at the date of application) Basic DBS Check certificate, register for the DBS Update Service and give the Council ongoing permission and the information required to check the status of their certificate every year or otherwise as considered necessary, by no later than 1 July 2021. Any operator who fails to do so will be subject to suspension or other enforcement intervention as appropriate.
- 11.1.3** Where an applicant or licence holder has spent an extended period (three or more continuous months) outside the UK, A Certificate of Good Conduct will also be required from the relevant embassy.
- 11.1.4** Where the applicant is a company or partnership, these requirements shall apply to all directors, partners, and secretaries.

11.1.5 Once an operator has registered for the Update Service they must remain registered, and give the Council permission to check the status of their certificate as considered necessary, for the duration of their time as a licensed Operator with the Council.

11.1.6 The council may, at any point throughout the duration of this Policy, specify (by way of updating the relevant sections on its website) the way in which applicants can/must apply for their DBS certificates (e.g. via a 3rd party). Applicants will continue to be responsible for all costs associated with this.

12. Restricted Private Hire Operators and Drivers

12.1 Operators will only assign bookings to restricted private hire drivers and restricted private hire vehicles in accordance with the conditions specifying the restrictions for use for these licences .

APPENDIX J**TAXI LICENSING AND ENFORCEMENT POLICY****1. Enforcement Policy Statement**

- 1.1** It is the policy of Swale Borough Council to ensure that taxi drivers and operators are licensed correctly and carry out their trade in accordance with the relevant law, the conditions attached to the licences and this policy.
- 1.2** This policy is intended to fairly and firmly enforce the law in a consistent and transparent way. The Council has adopted or is in agreement with the provisions of the Government's Enforcement Concordat. This is reflected in the Councils' Common Enforcement Policy which underpins all service or topic specific enforcement policies adopted by the council. This represents a graduated approach to enforcement based on the principles of:
- a) agreed standards and procedures
 - b) helpfulness
 - c) openness
 - d) transparency
 - e) proportionality
 - f) consistency
- 1.3** All enforcement action will be conducted in accordance with the Council's Enforcement Policy.
- 1.4** Authorised officers, when making enforcement decisions, will abide by this policy. Any departure from the policy must be exceptional, capable of justification, be fully considered and be endorsed by the Licensing Manager or above before the decision is taken (unless it is considered that there is significant risk to the public in delaying the decision).
- 1.5** Authorised officers must be fully acquainted with the requirements of the policy and appropriate training will be provided where required.
- 1.6** Officers will be authorised by the 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.

2 Enforcement Options

- 2.1** Achieving and maintaining a consistency of approach to making all decisions that concern taxi licensing and enforcement action, including prosecution, is of paramount importance. To achieve and maintain consistency, it is vital that the policy guidelines are always considered and followed where appropriate.
- 2.2** Licence application and 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:

- a) Seriousness of any offences;
- b) Driver, proprietor or Operator's past history;
- c) likely effectiveness of the various enforcement options;
- d) danger to the public.

2.3 Having considered all relevant information and evidence, the choices for action are:-

2.3.1 Licence Applications:

- a) grant licences subject to the Council's Hackney Carriage and Private Hire Licensing Policy requirements
- b) refuse to grant a licence.

2.3.2 Enforcement Action:

- a) no action;
- b) informal action;
- c) formal action
- d) use statutory notices, (stop notices etc.);
- e) suspend a licence;
- f) revoke a licence;
- g) use simple cautions;
- h) prosecute
- i) a combination of any of the above

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

3. Informal Action

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

- a) the act or omission is not serious enough to warrant more formal action
- b) it can be reasonably expected that informal action will achieve compliance
- c) perhaps by taking into account the individual driver or operator's past history
- d) confidence in the operator's management is high
- e) 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.

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

4. Appearance before the relevant Committee of the Council

- 4.1** An offending individual or company may be summoned before the Licensing Sub Committee to answer allegations of breaches of relevant legislation, Bye-laws or conditions attached to licences or a contravention of this policy.
- 4.2** Current licence holders who report offence, conviction, prosecution, cautions or breach relevant legislation during the period of their licence may be brought before the Licensing Sub Committee.
- 4.3** The Committee may decide to take one or more of the following actions:-
- a) no action;
 - b) a written warning;
 - c) require the production of driving licences or other specified documentation at the Council's Office;
 - d) suspend a licence;
 - e) revoke a licence;
 - f) recommend prosecution action;
 - g) taking an additional driving standards test;
 - h) other appropriate action as deemed necessary

5 Section 68 Notices (Stop Notices)

- 5.1** An authorised officer may serve notice in writing for a hackney carriage or private hire vehicle or the taximeter affixed to such vehicle to be examined at the Council's appointed garage at a time specified in the notice. This notice must only be served having had due regard to the condition of the vehicle or with reasonable grounds to suspect the accuracy of the taximeter.
- 5.2** An authorised officer may, in addition to requiring the vehicle to be tested, suspend the vehicle licence until such time as he is satisfied with the condition of the 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.
- 5.3** The suspension notice will remain in place until such time as the Officer issuing the notice is satisfied that the grounds for suspension have been satisfactorily resolved. Written confirmation of the lifting of the suspension notice will be given. Until such time as written confirmation has been received, the suspension notification will remain active.
- 5.4** If the Authorised Officer who issued the suspension notice is not satisfied that the appropriate action has been taken to allow the suspension notice to be withdrawn within a period of two months from the date of issue, the vehicle licence shall be deemed to be revoked.

6 Appeals

- 6.1** Appeals against decisions of the Licensing Sub Committee or authorised officers may in appropriate circumstances be made to the Magistrates' Court.

- 6.2** Any notifications of enforcement actions will include written information on how to appeal. Where the Council suspends or revokes a driver's licence the revocation or suspension may take place immediately where relevant legislation allows, regardless of the fact that the driver may have made an appeal against the decision to the Magistrates' Court.
- 6.3** A driver can also appeal against a refusal to renew his drivers licence, but as his previous licence would have already expired he cannot continue to drive as he would no longer hold a current licence.
- 7 Prosecution**
- 7.1** The decision to prosecute is a very significant one as it may impact on the licence holder's future employability. Prosecution will, in general, be restricted to those circumstances where the law is blatantly disregarded, legitimate requirements of the Council are not followed and / or the public is put at serious risk. Such circumstances are, however, in a minority. It is important that the criteria on which a decision to prosecute is made provide common standards which ensure a consistent approach.
- 7.2** The circumstances which are likely to warrant prosecution may be characterised by one or more of the following:
- a) 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;
 - b) when there appears to have been reckless disregard for the safety of passengers or other road users;
 - c) where there have been repeated breaches of legal requirements;
 - d) where a particular type of offence is prevalent;
 - e) where a particular contravention has caused serious public alarm.
- 7.3** When circumstances have been identified which may warrant a prosecution, all relevant evidence and information must be considered, to enable a consistent, fair and objective decision to be made.
- 7.4** Before referring a matter to the Legal Section for possible prosecution, the Licensing Manager as well as an authorised officer 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.
- 7.5** In addition to being satisfied that there is sufficient evidence to provide realistic prospect of conviction, it must be established that it is in the public interest to prosecute. The Code for Crown Prosecutors (eighth edition or any subsequent edition), issued by the Crown Prosecution Service, provides guidance which will be considered, including relevant public interest criteria
- 7.6** When a decision is being taken on whether to prosecute, the factors to be considered may include:-

- a) the seriousness of the alleged offence;
- b) the risk or harm to the public;
- c) identifiable victims;
- d) failure to comply with a statutory notice served for a significant breach of legislation;
- e) disregard of safety for financial reward;
- f) the previous history of the party concerned;
- g) offences following a history of similar offences;
- h) failure to respond positively to past warnings;
- i) the ability of any important witnesses and their willingness to cooperate;
- j) the willingness of the party to prevent a recurrence of the problem;
- k) the probable public benefit of a prosecution and the importance of the case e.g. whether it might establish a legal precedent. (As indicated above, advice on the public interest is contained in the code for Crown Prosecutors. The general thrust of the advice contained therein is that, the graver the offence, the less likelihood there will be that the public interest will allow anything other than a prosecution);
- l) whether other action, such as issuing a simple caution

8 Simple Cautions

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

8.2 The purposes of the simple caution are:-

- a) to deal quickly and simply with less serious offences;
- b) to divert less serious offences away from the Courts;
- c) to reduce the chances of repeat offences

8.3 To safeguard the suspected offender's interests, the following conditions should be fulfilled before a caution is administered:-

- a) there must be evidence of the suspected offender's guilt sufficient to give a realistic prospect of conviction;
- b) the suspected offender must admit the offence;
- c) the suspected offender must understand the significance of a simple caution and give informed consent to being cautioned.

8.4 If there is insufficient evidence to consider taking a prosecution, then by implication, the criteria is not satisfied for the use of a simple caution. A simple caution should also 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).

8.5 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.

9 Transparency

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

9.2 Any written documentation issued or sent will:-

- a) 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;
- b) 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; and
- c) clearly indicate any recommendations of good practice under an appropriate heading, to show that they are not a legal requirement.

9.3 The 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.

APPENDIX K**NATIONAL REGISTER OF TAXI LICENCE REVOCATIONS AND REFUSALS (NR3)**

This policy covers the use that Swale Council will make of the ability to access and use information contained on the National Register of Taxi Licence Revocations and Refusals (NR3). The NR3 contains information relating to any refusal to grant, or revocation of, a taxi drivers' licence. This information is important in the context of a subsequent application to another authority for a drivers' licence by a person who has had their licence refused or revoked in the past.

Swale Council has signed up to the National Register of Taxi Licence Revocations and Refusals (NR3). This means that when an application for a taxi drivers' licence is refused, or when an existing taxi drivers' licence is revoked, that information will be placed upon the register.

When an application for a new drivers' licence, or renewal of an existing drivers' licence is received, Swale licensing officers will make a search of the NR3. The search will only be made by an officer who has been trained in the use of the NR3 and who is acting in accordance with this policy. If details are found that appear to relate to the applicant, a request will be made to the authority that entered that information for further details.

Any information that is received from any other authority in relation to an application will only be used in relation to that application, and the determination of it, and will not be used for any other purpose. Any data that is received will only be kept for as long as is necessary in relation to the determination of that application. This will include the period of processing that application, making a decision, notifying the applicant of the outcome of that decision, and the appeal processes.

For the avoidance of doubt, any such data will be kept for a period of no more than 35 days from the date of the service of the written notification of the determination of the application⁹.

Where an appeal to the magistrates' court is made, the data will be retained until that appeal is determined or abandoned. Where the appeal is determined by the magistrates' court, there is a further right of appeal to the Crown Court. In these circumstances, the data will be retained for a period of no more than 35 days from the date of the decision of the magistrates' court. If an appeal is made to the Crown Court, the data will be retained until that appeal is determined or abandoned.

Where the appeal is determined by the magistrates' court or the Crown Court, it is possible to appeal the decision by way of case stated. Accordingly, the data will be retained for a period of no more than 35 days from the date of the decision of the Crown Court (if the decision was made by the magistrates' court, the retention period has already been addressed). If an appeal by way of case stated is made, the data will be retained until all court proceedings relating to that appeal by way of case stated (which will include potential appeals to the Court of Appeal and Supreme Court) have been determined.

The data will be held securely in accordance with this Swale Council's general policy on the secure retention of personal data. At the end of the retention period, the data will be erased and/or destroyed in accordance with this authority's general policy on the erasure and destruction of personal data.

When an application is made to this authority for the grant of a new, or renewal of, a taxi driver's licence, Swale BC licensing officers will check the NR3.

The Council will make and then retain a clear written record of every search that is made of the register. This will detail:

- a) the date of the search;
- b) the name or names searched;
- c) the reason for the search (new application or renewal);
- d) the results of the search; and
- e) the use made of the results of the search (this information will be entered to the register at a later date).

This record will not be combined with any other records (i.e. combined with a register of licences granted) and will be retained for the retention period of 25 years.

If the Council discovers any match (i.e. there is an entry in the register for the same name and identifying details) a request will be made to the authority that entered those details (the first authority) for further information about that entry. That request will also include details of the Council's data protection policy in relation to the use of any data that is obtained as a result of this process.

When the Council receives a request for further information from another authority a clear written record will be made of the request having been received. This record will not be combined with any other records (i.e. combined with a register of licences granted) and will be retained for the retention period of 25 years.

The Council will then determine how to respond to the request. It is not lawful to simply provide information as a blanket response to every request.

The Council will conduct a Data Protection Impact Assessment. This will consider how the other authority (the second authority) will use the data, how it will store that data to prevent unauthorised disclosure, the retention period for that data, and the mechanism for erasure or destruction of the data at the end of that period. It is expected that if the second authority has adopted a policy similar to this, that should be a reasonably straightforward process.

If the Council is satisfied that the other authority's (the 2nd authority) data protection procedures are satisfactory, consideration will then be given as to what information will be disclosed¹⁶. This will be determined by an officer who has been trained to discharge this function.

Any disclosure must be considered and proportionate, taking into account the data subjects' rights and the position and responsibilities of a taxi driver. Data is held on the NR3 register for a period of 25 years, but Swale Council (the 1st authority) will

not disclose information relating to every entry. Each application will be considered on its own merits.

The Council will disclose information relating to a revocation or refusal to grant a drivers' licence in accordance with the timescales contained within the Institute of Licensing's "*Guidance on Determining the Suitability of Applicants and Licensees in the Hackney and Private Hire Trades*"¹⁷ [or own policy if this differs]. Where the reason for refusal to grant or revocation relates to a conviction (or similar as defined in the IoL guidance) which is within the timescales determined in those guidelines, the information will be disclosed. Where the reason for refusal to grant or revocation relates to a conviction (or similar as defined in the IoL guidance) which is outside the timescales determined in those guidelines, the information will not be disclosed. However, in every case, consideration will be given to the full circumstances of the decision and there may be occasions where information is provided other than in accordance with this policy.

Any information about convictions will be shared in accordance with this policy under part 2 of scheduled 1 to the Data Protection Act (DPA) 2018; that is, the processing is necessary for reasons of substantial public interest in connection with the exercise of a function conferred on the authority by an enactment or rule of law.

The officer will record what action was taken and why. The Council will make and then retain a clear written record of every decision that is made as a result of a request from another authority. This will detail:

- a) the date the request was received
- b) how the data protection impact assessment was conducted and its conclusions
- c) the name or names searched
- d) whether any information was provided
- e) if information was provided, why it was provided (and details of any further advice obtained before the decision was made)
- f) if information was not provided, why it was not provided (and details of any further advice obtained before the decision was made) and
- g) how and when the decision (and any information) was communicated to the requesting authority.

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Policy and Resources Committee	
Meeting Date	10 September 2025
Report Title	Constitution amendment: Various
EMT Lead	Robin Harris – Monitoring Officer
Head of Service	
Lead Officer	
Classification	Open
Recommendations	<p>Policy and Resources committee is asked to:</p> <ol style="list-style-type: none"> 1. Consider the amendments at Appendix I and determine which of the amendments to recommend to council for their incorporation into the constitution.

1 Purpose of Report and Executive Summary

- 1.1 This report introduces a number of changes to the constitution to correct errors, provide clarity and generally improve the document. The report asks to Policy and Resources committee to recommend the amendments to council for adoption.

2 Background

- 2.1 Council voted unanimously in October 2021 to move to a committee system of governance from the 2022/23 municipal year. At the same meeting, council requested the cross-party working group (the Constitution Working Group or “CWG”) which had been established to consider this governance change to continue its work in overseeing the detail of the new constitution.
- 2.2 The CWG now meets on an ‘as needed’ basis to consider changes to the committees or the constitution of the Council. The CWG has now met twice since June 2025 and has agreed Terms of Reference for the group.
- 2.3 The amendments proposed, as set out in Appendix I have been raised as issues because they are either in error, could have greater clarity, make decisions more robust and/or improve efficiency, or in the case of the proposals around the term of the Leader, to receive a steer from the P&R Committee as to what recommendation to put to Council.

3 Proposals

- 3.1 The constitution working group reviewed the proposals in appendix I and were satisfied that the amendments to the constitution could be made. With respect to the term of office for the Leader of the Council, this is for Policy

and Resources Committee to consider. If the period is to be for one year, then the constitution does not need to be amended. If the term is to be a period of more than one year, then the proposed text for clause 3.1.2.1 is recommended, with the specific term to be entered at paragraph (7).

3.2 Appendix 1 details the other proposals and the reasons for the proposal.

3.3 The Policy and Resources committee is now asked to **Consider** the amendments at Appendix I and **determine** which of the amendments to **recommend to council** for their incorporation into the constitution.

4 Alternative Options Considered and Rejected

4.1 The Committee could not make the proposed amendments, but this is not recommended as improvements would not be made.

5 Consultation Undertaken or Proposed

5.1 The cross-party constitution working group has given consideration to the proposed amendments set out at Appendix I.. Consultation has also taken place with the officers, who are responsible for administering the work in the areas affected.

6 Implications

Issue	Implications
Corporate Plan	Adoption of improvements to the constitution and the removal of errors support the fourth corporate priority of renewing local democracy and making the council fit for the future.
Financial, Resource and Property	No direct implications identified at this stage.
Legal, Statutory and Procurement	The Council is required to have a constitution.
Crime and Disorder	No direct implications identified at this stage.
Environment and Climate/Ecological Emergency	
Health and Wellbeing	
Safeguarding of Children, Young People and Vulnerable Adults	
Risk Management and Health and Safety	

Equality and Diversity	
Privacy and Data Protection	

7 Appendices

7.1 The following documents are to be published with this report and form part of the report:

- Appendix I: Proposed amendments

8 Background Papers

8.1 There are no background papers

Issue:

Leader of the Council to automatically be the chair of Policy and Resources Committee.

Leader of the Council (Chairman of P&R Committee):

Membership and functions of the Policy and Resources Committee

2.2.1.1 The Policy and Resources Committee shall be comprised of 15 members of the Council. (Add: The Leader of the Council will be the Chair of the Policy and Resources Committee)

Issue:

How long the term of Leader should be?

Leader of the Council (Term of Office):

Note that a 1 yr term is already facilitated by rule 3.1.1 (6) below:

3.1.1 Annual Meeting of the Council *

(6) Elect the Leader of the Council; (Add: if required. (See procedure rule 3.1.2.1 below.))

3.1.2 Election of Mayor and Deputy Mayor *

...

If no nominations are received, nominations for the Mayor and Deputy Mayor shall be requested at the Annual Meeting.

(Add: 3.1.2.1 Election, Term and Removal of the Leader of the Council

- (1) In a year where there is an ordinary election of Members, the Annual Meeting of the Council will elect a member to be the Leader of the Council. In other years, Annual Council will only elect a Leader if their term has expired, they have retired or been removed or are otherwise unable to continue as the Leader.
- (2) Where a Leader falls to be elected, each political group may propose one candidate to be the Leader of the Council. Once proposed, a candidate's nomination must be seconded, in order for the candidate to go forward to the vote.
- (3) Once all nominations have been proposed and seconded the Council will vote on each member in alphabetical order.
- (4) The member with the highest number of votes will be elected as Leader of the Council.

- (5) In the event of a tie, the candidates with the least number of votes will be eliminated from the vote and a further vote will be taken with just the candidates who are tied.
- (6) If, after this second vote, the result is still a tie, the Chief Executive will arrange, at their discretion, a fair method to determine which of the candidates will be elected as Leader of the Council.
- (7) Subject to Rule 3.1.2.1 (1) the term of office for the Leader of the Council will be (x) years.
- (8) The Leader may be removed from office by motion to the Council. (See procedure rule 3.1.14.4 below.)

Issue:

Committee Appointments – The current constitution sets out that members of the Disciplinary and Investigations Committees need to sit on P&R. This is unworkable.

Subcommittees and Working Groups

2.2.1.4 The Policy and Resources Committee may establish such subcommittees and/or working groups as it requires and may set the terms of reference and membership of those subcommittees and working groups.

It shall also have the following subcommittees (Add: and working groups.) (Delete: ~~each comprised of 7 members of the Committee who have received appropriate training on the conducting of hearings and employment.~~) (Add: The subcommittees will be made up of 7 members of the Council who will be provided with contemporaneous training and support from an external provider as required.)

Issue:

Minor amendments to the constitution and oversight of amendments

Delegations to the Monitoring Officer

2.8.8.4 To make any necessary updates to the Constitution (as required by law) where there is no discretion in consultation with the Leader of the Council. (Add: and the Chairman of the Constitution Working Group.)

2.8.5.6 To publish and maintain the Council's Constitution with authority to make minor textual changes and amendments (Delete: ~~to Officer Delegations to take account of changes in legislation~~) in consultation with the Leader of the Council (Add: and the Chairman of the Constitution Working Group).

Proposed Change to the Constitution

Title: *(Short title for ease of reference)*

Changes to write off procedures and limits
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Relevant section of the Constitution (including page/paragraph number):

2.8.7.4 & 2.8.7.29 & 2.8.7.33
D5.9 para b)(PAGE 29)

Description of proposed change:

(Please show the tracked changes here or attached as a separate word document)

2.8.7.4 To write-off any irrecoverable debt in accordance with the Financial Regulations, ~~and the information to be kept in a register.~~

2.8.7.29 To write-off any irrecoverable debt in respect of Council Tax, Non-Domestic Rates and Housing Benefit Overpayments in accordance with the Financial regulations ~~and the information to be kept in a register.~~

2.8.7.33 To write-off any irrecoverable debt in the case of council tax, business rates or housing benefit overpayments in accordance with the Financial Regulations, ~~and the information to be kept in a register.~~

D5.9

(a) all debts arising from ~~companies being dissolved~~, bankruptcies, and liquidations, which are not covered by distributions from liquidators, receivers or administrators; and

(b) any other single amount due to the Council up to ~~£5,000~~ £10,000 or with ~~Strategic Management Team~~ Directors and CX approval ~~£10,000~~ £20,000. Any outstanding debt in excess of this amount can only be written off with the consent of the Policy and Resources Committee.

Reason, including referenced documents/acts, for proposed change:

(2.8.7) The council tax, business rates and housing benefit systems adequately record all transactions that are approved for write off and so the keeping of a register is a duplication of effort that is not required.

D5.9 (a) Adding where companies have been dissolved to clarify a position where there are no assets for liquidators etc to administer and the debt is non recoverable.

(b) Replace SMT with directors and Chief Executive (This was the previous make up of SMT when the regs were drafted). Increase the write off limits as these have not been reviewed for many years. P&R briefly discussed this issue when I last reported write offs as by the time I bring a debt to committee for write off there is no chance of debt recovery as the team have done everything that they can to try and recover funds for the council.

A general request for all references to Strategic Management Team within the constitution that relate to the previous make up of that group are replaced with the relevant senior Management Team to ensure that the correct management team group is documented.

Timescale:

asap

Policy & Resources Committee	
Meeting Date	10 September 2025
Report Title	Swale Leisure Contract – capital investment
EMT Lead	Emma Wiggins, Director of Regeneration and Neighbourhoods
Head of Service	Martyn Cassell, Head of Environment and Leisure
Lead Officer	Jay Jenkins, Leisure & Technical Services Manager
Classification	Open
Recommendations	<ol style="list-style-type: none"> 1. To add a capital budget allocation of £2 million and the revenue allocation for the capital financing to the Medium-Term Financial Plan from 2026/27 for leisure centre contract investment. Delegate to the Director of Resources on the most appropriate sources of capital financing. 2. Delegate that officers work up a robust investment plan, in liaison with the Members Working Group. To deliver the improvements, based on the criteria to reduce running costs and help meet our carbon reduction challenges and to select the most appropriate time to undertake the works.

1 Purpose of Report and Executive Summary

1.1 This report details the recent discussions with the cross-party Members Leisure Working Group (MWG) regarding the issue of capital investment in the new leisure contract (the Contract) from April 2027 and the decision made at Housing, Health & Communities Committee on 3 July 2025.

1.2 The report confirms the resolution reached at the Housing, Health & Communities Committee on 3 July 2025:

Resolved: That the £2 million capital investment be referred to the Policy & Resources Committee for budget allocation and approval

1.3 The Committee are asked to discuss the implications of SBC funded capital investment into the contract.

2 Background

2.1 The existing leisure contract (covering Swallows and Sheppey) is due to expire on 31 March 2027.

- 2.2 On 21 January 2025, the Community Committee approved the MWG's recommendation to proceed to an external procurement process to agree the Contract on a 10 + 5-year basis from April 2027.
- 2.3 The Faversham Pools Trust Board met on 10 February 2025 and unanimously voted to be included into the Contract from April 2027, subject to final agreement on terms. On 5 March 2025, the Community Committee approved the inclusion of Faversham Pools into the Contract (subject to agreement of final terms). Following negotiation of the legal terms of the agreement, FPT Board formally accepted them recently and the documents are being prepared for signing.
- 2.4 Based upon recent and previous condition surveys and the age of the existing facilities, all three facilities will require capital investment over the course of the 10–15-year contract period. This is predominantly required in service areas, boilers, air handling and pool filtration systems, so the proposal is to utilise the SBC investment into these key areas of 'behind the scenes' service delivery, which will extend the longevity of the facilities.
- 2.5 Officers will need to investigate the current information and develop a robust investment plan to ensure the best use of the capital. This will focus on the main criteria being driving down the costs of operating the service and reducing our carbon footprint. This will also include determining the timing of the works, which could be pre or post contract award depending on the most effective and efficient timing of the works.
- 2.6 The tender will also look to unlock capital investment from the contractor to try and add/improve the range of activities on offer. Evidence from previous tender processes suggests that capital investment by the local authority in operating plant areas helps to keep contract subsidy down and will likely encourage greater capital investment from operators themselves and allow them to focus on upfront facilities that increase revenue generation. Both of these investments can be supplemented by further external funding and developer contributions that are received for increasing capacity to meet additional demand.
- 2.7 The required works are the council's responsibility under the current / future contract and as such we are obliged to cover these costs. The works are required to ensure the facilities can continue to operate as failure of plant would result in the council funding the replacement costs. The investment will ensure that it doesn't fail and is replaced in a planned way.

3 Proposals

The Committee is requested to review the following recommendations in this report.

- 3.1 To add a capital budget allocation of £2 million and the revenue allocation for the capital financing to the Medium-Term Financial Plan from 2026/27 for leisure

centre contract investment. Delegate to the Director of Resources on the most appropriate sources of capital financing

- 3.2 Delegate that officers work up a robust investment plan, in liaison with the Members Working Group. To deliver the improvements, based on the criteria to reduce running costs and help meet our carbon reduction challenges and to select the most appropriate time to undertake the works

4 Alternative Options Considered and Rejected

- 4.1 The Committee could decide to approve a lower capital investment figure or no investment at all. This is not advised as the facilities require significant investment from SBC and the leisure operator.

5 Consultation Undertaken or Proposed

- 5.1 MWG has ensured cross party involvement in this project and have discussed the implications of car parking refunds and capital investment.
- 5.2 Housing, Health & Communities Committee discussed the item on 3 July 2025.
- 5.3 Before investment of new capital, we will engage with the operator to understand customer feedback as part of the process. Where new facilities are proposed, we will liaise with the new contract 'User Group' forums.

6 Implications

Issue	Implications
Corporate Plan	Community, to enable our residents to live, work and enjoy their leisure time safely in our borough and to support community resilience.
Financial, Resource and Property	<p>Capital Investment:</p> <ul style="list-style-type: none">• Four Investment values were reviewed by the service committee.• The Recommendation is to invest £2million.• The rate would be fixed at the point of taking out the loan.• Impact on revenue budget on a 25-year loan would be circa £158,000 per annum on current borrowing figures. <p>This will mean that there is a pressure on the revenue budget and therefore the timing of the works will need to be considered, and Members will need to identify additional savings through the budget setting process for the relevant years.</p>

	<p>Non-investment in the facilities will likely increase running costs in the future and run the risk of claims from the operator from down time resulting from closure of the facilities.</p> <p>In addition to the financial impacts, there are several community impacts, resulting from loss of facilities.</p> <p>The required works are the council's responsibility under the current / future contract and as such we are obliged to cover these costs. The works are required to ensure the facilities can continue to operate.</p>
Legal, Statutory and Procurement	<p>The evaluation of capital investment offered by bidders is part of the procurement process.</p> <p>The provision of leisure centres is not a statutory service. So, management of the service and cost is flexible for Members to decide.</p>
Crime and Disorder	<p>The provisions delivered by the leisure centres act as diversionary activities for young people, likely contributing to reducing crime and/or ASB. Many activities for younger people are being reduced due to funding issues by other agencies and therefore those that can be delivered by leisure centres are an important requirement.</p>
Environment and Climate/Ecological Emergency	<p>Any investment in the leisure centre buildings needs to consider reducing the carbon footprint of the service, due to their high energy usage.</p>
Health and Wellbeing	<p>Health & Wellbeing is a key output of any leisure contract. Social impact outcomes are directly linked to SBC's ability to offer a suitable and easily accessible leisure offering.</p> <p>The Contract will be prescriptive regarding working with local Health Partnerships (e.g. Health & Care Partnerships, ICB etc) to engage in Social Regeneration Programs to tackle health inequalities.</p>
Safeguarding of Children, Young People and Vulnerable Adults	<p>All target groups will be considered as part of the tender process.</p> <p>Clearly the leisure centre environment needs a certain level of assurance that operators understand the implications and can manage it successfully. The tender will ensure we capture the capabilities and experience of operators in this field.</p>
Risk Management and Health and Safety	<p>The leisure contract procurement project has a risk log in place which currently identifies 21 risks, all of which have control measures in place.</p> <p>Health and safety is a core component of the contract specification that tenderers will be asked to submit plans to cover this key area.</p>

	The proposed capital investment will reduce health and safety risks and also future proof the facilities to reduce the risk of future major investment being needed and the consequences of closure of the buildings.
Equality and Diversity	A full equalities impact assessment will be presented with the award of contract report following the tender process. The tender process will follow standard Sport England recommended processes which ensure equality of access/opportunity is at the heart of the decision.
Privacy and Data Protection	None identified.

7 Appendices

8 Background Papers

- 8.1 [Printed Minutes 05032025 Community & Leisure Committee](#)
- 8.2 [Printed Minutes 21012025 Community & Leisure Committee](#)
- 8.3 [Printed Minutes 03072017 Housing, Health & Communities Committee](#)

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Policy and Resources Committee	
Meeting Date	10 th September 2025
Report Title	Procurement of Build Contract for Cockleshell Walk Housing Scheme
EMT Lead	Emma Wiggins, Director of Regeneration and Neighbourhoods
Head of Service	Charlotte Hudson, Head of Housing and Communities
Lead Officer	Charlotte Hudson, Head of Housing and Communities
Classification	Open with restricted appendices
Recommendations	<ol style="list-style-type: none"> 1. That the Committee approves the appointment of Company A as supplier for Cockleshell Walk Build Contract subject to appropriate levels of grant secured from Homes England. 2. That the committee allow delegated authority to the Head of Service to award to the next suitable alternative tenderer in the event that a contract cannot be executed with the highest scoring tenderer. 3. The total cost of the project is currently estimated at £13.763m when including professional fees and contingency allowances, it is proposed that this committee approve the total spend and allow delegated authority to the Director of Resources to determine the most appropriate balance of funding sources for a viable scheme.

1 Purpose of Report and Executive Summary

- 1.1 This report provides a background to the Cockleshell Walk funding model and summarises the procurement process undertaken for the Build Contract of the 51-unit scheme at Cockleshell Walk, Sittingbourne.
- 1.2 The Southeast Consortium Framework was utilised to carry out a one stage tender process based on the most advantageous tender (MAT) which was evaluated on 60% price and 40% quality. The Contract is to provide the construction of the 51-unit scheme at Cockleshell Walk.
- 1.3 This report seeks Committee approval of the recommended contractor and seeks delegated authority to finalise the scheme funding.

2 Background

- 2.1 On 28th October 2020 Cabinet agreed to progress with the establishment of a Local Housing Company (LHC), loan the LHC up to £23m to fund the Capital development and provide three sites owned by the Council for development purposes. Consultants Counties and Capital Ltd were appointed to work on these proposals and develop the schemes. Early in the work external economic factors driven by COVID19, BREXIT and Ukraine war impacted interest rates and development costs significantly. It became apparent that the original ambition and modelling work were no longer viable. It was agreed however, to pursue one site and change the approach to secure additional grant funding to bridge the viability gap.
- 2.2 Detailed design work was commissioned to secure planning consent for the site at Cockleshell Walk. Planning permission was granted by Planning Committee on 23rd May 2024. Work to finalise the Memorandum of Understanding (s.106 equivalent) was finalised on 18th March 2025.
- 2.3 A revised model was developed by the Director of Resources (s.151 Officer) taking into consideration modelled build costs, current interest rates and the intended operating models. Different tenures and therefore rent levels were also considered as part of the modelling. This identified the shortfall in funding for the scheme and levels of external funding that needed to be secured. The model is shown in Appendix 1.
- 2.4 A grant of £943k was secured from the Brownfields Land Release Fund (BLRF) and dialogue was entered into with Homes England regarding securing grant funding from the Affordable Homes Programme (AHP). To secure grant funding from Homes England, it was agreed by the Swale Rainbow Homes Shareholder Panel that the Council would be best placed to secure the funding and become an Investment Partner. Therefore, the build contract and grant would need to be entered into by the Council and not Swale Rainbow Homes Ltd.
- 2.5 Homes England have reviewed the scheme and the modelled costs ahead of a formal application and raised concerns regarding the modelled costs being too high in their experience. They requested tendered costs to form part of the application process, therefore the tender process and grant application have had to take place concurrently. They also expect developers (including Councils) to maximise any borrowing and other contributions to the scheme prior to them funding the viability gaps.
- 2.6 As part of the modelling a range of funding sources from the Council have been identified. These include commuted sum s.106 funds which there are currently £1m available. Capital receipts received from the disposal of Fountain Street, Homes England grant funding and the balance of costs to be funded from borrowing. The model proposes the use of balance of Housing & Commercial

Growth Business Rates Fund Reserve funding already set aside for this project to fund the cost of borrowing for the first 15 years of the project.

- 2.7 The model has also been updated to assume rental income at social rent levels.

Procurement of Build Contract

- 2.8 Consultants Airey Miller were appointed to develop the detailed Tender Specification and Employer Requirements of the scheme following planning permission being granted and the scheme design being frozen.
- 2.9 The tender process took place utilising the Southeast Consortium Dynamic Purchasing System (DPS) which culminated in 3 compliant tenders being received. The opportunity was advertised in accordance with current contract standing orders and the Procurement Act 2023, with interested parties asked to complete an Invitation to Tender. Scores were allocated according to the criteria explained in the tender document.
- 2.10 Tenders were received on the 3rd of June followed by a period of clarification leading to the Tender Report being issued by our Employers Agent Airey Miller on the 30th of June. Following a detailed review of the costs, size of tenderer, suitability of contractor's proposals and ensuring completeness by checking for omissions the tender submissions were independently scored by staff from Airey Miller, Swale Borough Council and Counties & Capital Consulting.
- 2.11 Tenders were scored on 60% Price and 40% Quality. The weighted scores of all three tenders are shown in the Table 1 below:

Company	Price Score	Quality Score	Total
A	58.64	26.60	85.24
B	43.57	26.20	69.77
C	60.00	24.80	84.80

- 2.12 Airey Miller recommend SBC consider entering into contract with Company A with a fixed price of **£11,477,992.50** exclusive of VAT and inclusive of **£330,000** of agreed provisional sums (to be firmed up during contract negotiation) and with the proposed Contract period of 90 weeks. These prices are currently held until mid-October and could be subject to an inflationary uplift if we do not have resolution of the Homes England Grant at this time.

Funding model

- 2.13 Although the original funding model detailed in the Cabinet report from October 20 allowed for Capital funding of up to £23m this was based on the rental income within the model funding the borrowing costs. Therefore, a revised model was

developed that took into consideration a range of variables including interest rates and different tenure types. Extensive conversations have taken place with Homes England to review the model costs and seeking firm market costs through the procurement process. Now the actual costs are known a grant application has been submitted to Homes England. As this is a continuous market engagement process, we are unsure of the level of grant that we can achieve and when the outcome will be determined.

- 2.14 The model shown in Confidential Appendix I has made a range of assumptions and shows some modelled scenarios based on different level of grant received.

Proposals

- 3.1 That the Committee approves the appointment of Company A as supplier for Cockleshell Walk Build subject to appropriate levels of grant secured from Homes England.
- 3.2 That the committee allow delegated authority to the Head of Service to award to the next suitable alternative tenderer in the event that a contract cannot be executed with the highest scoring tenderer.
- 3.3 The total cost of the project is currently estimated at £13.763m when including professional fees and contingency allowances, it is proposed that this committee approve the total spend and allow delegated authority to the Director of Resources to determine the most appropriate balance of funding sources for a viable scheme.

4 Alternative Options Considered and Rejected

- 4.1 That the contract is not awarded, and the development of Cockleshell Walk is not progressed. This is not recommended as external funding is available to make the scheme viable and Swale has a high need for affordable and social rented homes. This scheme supports the Affordable Housing Emergency declared by the Council in April 2024.

5 Consultation Undertaken or Proposed

- 5.1 Consultation has taken place with Homes England in relation to the model and grant income available.

6 Implications

Issue	Implications
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Corporate Plan	This project supports the Health & Housing priority within the corporate plan. To aspire to be a borough where everyone has access to a decent home and improved health and wellbeing and will directly provide 51 affordable homes.
Financial, Resource and Property	The total cost of the project is currently estimated at £13.763m when including professional fees and contingency allowances. The detailed finance modelling is shown in exempt Appendix 1.
Legal, Statutory and Procurement	The Tender is compliant with Contract Standing Orders and Procurement Act 2023. A JCT contract will be entered into with the approved contractor.
Crime and Disorder	None identified at this time.
Environment and Climate/Ecological Emergency	Environmental Standards were agreed through the planning process, and this have been transferred into the tender specification.
Health and Wellbeing	Increasing the supply of affordable housing has a direct benefit on resident's health and wellbeing.
Safeguarding of Children, Young People and Vulnerable Adults	None identified at this time.
Risk Management and Health and Safety	The overall project has a risk management plan and CDM requirements have also been fully considered.
Equality and Diversity	None identified at this stage.
Privacy and Data Protection	None identified at this stage.

7 Appendices

- 7.1 The following documents are to be published with this report and form part of the report:

Appendix I: Finance Model – Restricted
Appendix II: Cashflow - Restricted

8 Background Documents

[Cabinet Report LHC 1020.pdf](#)

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By virtue of paragraph(s) 3 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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