

# Agenda

## Licensing Committee Meeting

Date: Monday, 14 July 2025

Time 7.00 pm

Venue: Council Chamber, Swale House, East Street, Sittingbourne, ME10 3HT

Membership:

Councillors Derek Carnell (Chair), Lloyd Chapman, Simon Clark, Alex Eyre, Carole Jackson, Mark Last, Rich Lehmann, Peter Marchington, Charlie Miller, Lee-Anne Moore, Tara Noe, Chris Palmer, Paul Stephen, Mark Tucker and Tony Winckless (Vice-Chair).

Quorum = 5

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### 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 Extraordinary Licensing Committee Meeting held on 12 May 2025 (Minute Nos. 822 – 825) as a correct record.

To approve the [Minutes](#) of the Meeting held on 11 February 2025 (Minute Nos. 641 – 646) as a correct record.

To approve the [Minutes](#) of the Meeting held on 14 May 2025 (Minute Nos. 38 – 39) as a correct record.

To accept the Minutes of the following Licensing Sub-Committees:

[12 May 2025](#)

[19 June 2025](#)

[24 June 2025](#)

## 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. Public Session

The Council operates a scheme of public speaking at meetings of the Licensing Committee. Requests to speak at the meeting must be registered by Democratic Services by noon on Friday 11 July 2025 and must be related to an item on the Agenda. Each speaker has a maximum of three minutes to speak.

6.	Hackney Carriage and Private Hire Licensing Policy 2025 - 2030	5 - 144
7.	Draft Statement of Licensing Policy under the Licensing Act 2003	145 - 186

**Issued on Friday, 4 July 2025**

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

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<b>Licensing Committee Meeting</b>	
<b>Meeting Date</b>	14 <sup>th</sup> July 2025
<b>Report Title</b>	Hackney Carriage and Private Hire Licensing Policy 2025 - 2030
<b>EMT Lead</b>	Emma Wiggins, Director of Regeneration and Neighbourhoods
<b>Head of Service</b>	Charlotte Hudson, Head of Housing and Community Services
<b>Lead Officer</b>	Johanna Thomas, Licensing Team Leader
<b>Classification</b>	<b>Open</b>
<b>Recommendations</b>	<ol style="list-style-type: none"> <li>1. Members to consider each of the recommendations made in the evaluation grid attached as Appendix III to this report, and request officers to update the draft policy document at Appendix 1 accordingly, prior to formal approval.</li> <li>2. That following the policy being updated, this committee recommends the policy to the Policy and Resources Committee for adoption, with a commencement date of 15 September 2025.</li> <li>3. That Members delegate any future amendments to appendices of the Statement of Hackney Carriage and Private Hire Licensing policy which are of a minor nature to the Policy &amp; Communities Manager.</li> <li>4. Members to agree the detail of the biannual tariff increase to be included in the update to the draft policy document at Appendix 1, prior to formal approval.</li> </ol>

## 1 Purpose of Report and Executive Summary

- 1.1 This report is to present members with consultation responses received in respect of the draft 'Statement of Hackney Carriage and Private Hire Licensing Policy.'
- 1.2 The report includes an evaluation of each response and gives an officer recommendation as to whether or not to amend the draft policy statement and, if so, in what way and to what extent. Member input is sought in finalising the policy statement for publication and implementation.

## 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 current edition of the Swale BC Hackney Carriage and Private Hire Licensing Policy 2022 – 2027 is available to view at <https://swale.gov.uk/news-and-your-council/strategies-and-policies/taxi-policy>
- 2.5 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 All proposed changes have been incorporated into the draft policy attached as **APPENDIX I** and a summary of these is set out in a table as **APPENDIX II** for ease of reference.

## 4 Consultation Undertaken

- 4.1 A consultation period of 12 weeks ran from 26 February 2025 to 28 May 2025. Methods of consultation included advertising on the council’s website, by way of direct emails, and where this was not possible, postal mailshots as well as advertising in local newspapers and a face-to-face meeting with the trade.

Newsletters reminding drivers and operators to participate in the consultation were also sent out by email.

4.2 The following responses to the consultation were received:

- a) Ward Councillor – 1
- b) Operators – 6
- c) Drivers – 2
- d) KCC Transport – 1
- e) National Private Hire and Taxi Association – 1

4.3 All responses that have been received have been entered onto a grid for consideration.

4.4 Licensing Officers, in consultation with the Policy & Communities Manager have conducted an evaluation of each response and where not mentioned in this main report have given comments and recommendations as to whether or not to amend the policy statement, and if so, in what way and to what extent.

4.5 The grid is attached as **APPENDIX III**. The main issues raised for members to consider are detailed as follows:

4.6 Date for transition to ultra-low emission electric vehicles

The issue that raised the most concerns related to the date set within the current policy for the transition of the trade to ultra-low emission electric vehicles (ULEV):

2.5 *From 1 April 2027, all new vehicle licence applications must be for vehicles that are ultra-low emission (ULEV) i.e.: less than 75 grams of CO<sub>2</sub>. 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).*

Concerns raised mirrored those expressed by the trade in response to the consultation for the 2022 Policy, namely:

4.6.1 The lack of charging infrastructure in place at the current time

4.6.2 The limited range (in terms of distance that can be travelled from a single charge) of electric vehicles.

4.6.3 The limited choice of electric vehicles available

4.6.4 The cost of buying electric vehicles.

- 4.6.5 The potential effect this could have both to the licensed trade and to the travelling public of Swale.

And added a new point of concern:

- 4.6.6 Lack of garages and trained mechanics with the ability to deal with repairs for ULEVs.
- 4.7 When members agreed the 2022 policy there was an expectation that infrastructure, technological advancements, price, and availability of ULEVs would be more conducive to progressing towards a ULEV taxi fleet. It is fair to say that advancements have not progressed as quickly as expected coupled with misinformation and consumer apprehension, while sales of fully electric cars are increasing, they still only account for 4.5% of the 34 million cars on UK roads.  
[How many EVs are there in the UK - EV market statistics 2024 - Zapmap](#)
- 4.8 In January 2024 the Government revised the date to ban sales of new petrol and diesel cars putting it back to 2035. Following the general election and the change in Government the original 2030 date was reinstated for the ban.
- 4.9 However, the House of Lords Environment and Climate Change Committee published in February 2024 reported that progress for the transition to electric vehicles is not happening fast enough, and major barriers remain. They urged the Government to take steps to accelerate progression, and suggested measures to tackle the price disparity between electric vehicles and petrol and diesel vehicles; speeding up the rollout of charging infrastructure; and ensuring charging is reasonably priced (<https://committees.parliament.uk/committee/515/environment-and-climate-change-committee/news/199773/the-uks-electric-vehicle-strategy-needs-a-rapid-recharge-says-lords-committee/>).
- 4.10 The current Government target for net zero emissions is 2050. In March, this year Swale Borough Council by way of the revised Climate and Ecological Emergency Action Plan amended their own net zero target from 2030 to 2045.
- 4.11 At the Licensing Committee meeting held on 11<sup>th</sup> February 2025 Members welcomed the consultation process to inform decisions. In addition to comments included in the consultation grid, Members should consider the following points when considering whether the existing proposal for all new vehicle applications to be ULEVs from 1<sup>st</sup> April 2027 is realistic:
- 4.11.1 The Hackney Carriage and Private Hire Licensing Policy can be reviewed and updated at any point should Members wish to consider postponing this decision to a later date. However, the proposed vehicle requirement is set to be implemented in 21 months' time so members may feel it more appropriate to agree a firm date now and review the date at the next policy revision in 2030.
- 4.11.2 Swale saw a reduction in the number of licenced divers following the pandemic from approximately 450 in 2017 to 293 in 2021. Over the past 4 years we have



seen a small increase to 324 licenced drivers but have not recovered the pre-pandemic numbers. The national statistics are showing a downward trend since 2017. If drivers and operators view Swale's vehicle licensing requirements as too stringent operators may downsize their business by not plating new vehicles when their current vehicles reach the age by which they can no longer be licenced, or operators and independent drivers may decide their business is no longer viable and cease to trade. This would have a detrimental effect on the borough's travelling public.

- 4.11.3 Operators may choose to licence with another local authority for the private hire work they undertake in this borough. Unless the alternative authority is happy to put in place an agreement that Swale licensing officers enforce on their behalf, Swale could find itself with a private hire trade that we cannot enforce against unless or until legislation changes which gives us the right to do so.
- 4.11.4 Operators may choose to no longer licence vehicles with 7 or 8 seats which must be wheelchair accessible. This would greatly disadvantage that part of the travelling public of Swale who rely on wheelchair accessible taxis as their only mode of transport.
- 4.12 Licensing are currently undertaking a benchmarking exercise with a view to revising taxi licensing fees which have remained static since 2017. With this in mind Members could consider whether a lower licence fee should be offered for ULEVs
- 4.13 In light of the above points and comments from the Taxi trade, Licensing Have consulted DMT and in particular the head of Environment and Leisure Commissioning and would propose Members consider revising the date by which all applications for new licenced vehicles must be ULEV to 2030, with the suggestion that this date is looked at again in 5 years' time when a new draft policy for 2030-2035 is presented to the Licensing Committee.

- Table of statistics showing year on year reduction in licenced vehicles and drivers since 2017 (Source: [taxi0101.ods](#))

#### 4.14 Restricted Private Hire Licences

The revised policy proposes a restricted private hire driver licence as a response to the DfT Guidance which suggests local authorities should consider the removal of the topographical test for applicants for private hire driver licences and in response to requests from applicants and operators.

If Members agree to the introduction of a Restricted Private Hire licences operators would be able to apply for a restricted private hire vehicle licence and put forward new applicants for restricted private hire driver licences. These vehicles and drivers would be restricted to working on specific contract work for example: client transport services operated under contracted to a Local Authority (generally school runs) or specialised executive contract work. Evidence of a

contract for this kind of work would be required at the point of application. Applicants for the restricted private hire driver licence would sit the street knowledge test but would not be required to sit the routes and places sections of the test as they would be regularly driving the same specified routes. They would not be permitted to work on general prebooked private hire fares outside of the specified contract work. It would be a condition of their licence that they can only drive a vehicle that has a restricted private hire plate, and this vehicle can only be used for the contract work and not for general private hire work. The plates for the vehicle would be distinctive to differentiate between Restricted Private Hire and Private Hire Vehicles. An operator may licence an Executive vehicle as restricted private hire and the vehicle would be exempt from displaying the plate on the vehicle. A driver with a dual licence or private hire only licence may drive a restricted private hire vehicle but only for the purposes of the contract work and not for general private hire jobs.

- 4.15 Whilst the DfT Guidance suggested the removal of the topographical test for all private hire applicants, Licensing Officers have grave concerns as to the effect this would have on the taxi trade both in the short and long term and have put forward the proposal for restricted private hire licences as a compromise to assist the diverse business models of taxi firms, while ensuring drivers for general prebooked private hire work have the knowledge of the borough they would need should satellite navigation systems loose connection or fail to recalculate a reliable alternate route if required.

A long-term concern in removing the topographical test for all private hire only applicants is that we would see a decrease in applicants for the dual badge which would leave operators short of drivers for the hackney fleet. This could then lead to a shortage of taxis available for immediate hire which would have a detrimental effect on the traveling public, in particular those traveling to Swale by train and wanting to continue their journey in a taxi, and within the night-time economy effecting those wishing to travel home safely after visiting the borough's pubs and clubs.

- 4.16 Comments received during the consultation period raised concerns from Kent County Council Transport and a taxi operator that applicants would not be able to provide evidence of a contract with Kent County Council at the time of application as they would need to have licences in place prior to commencing the application process for a client transport services contract with KCC. The draft policy has been amended so that the licences can be issued pending evidence of a contract and suspended should that evidence not be provided.

Other concerns raised included:

- 4.16.1 Whether as the use of the vehicle will be restricted the licence fee would be reduced.
- 4.16.2 Concerns that the restricted licences could be easily abused and be difficult to enforce.

In response to these concerns, the Licensing team propose to consider the fee as part of the bench marking exercise they are currently undertaking. Driver's badges and vehicle plates would be distinct and noticeably different from standard private hire plates, dual and private hire only badges, easily discernible to licensing officers, other taxi drivers, and members of the public. Executive vehicles although exempt from having to display their external plate, must have the internal plate positioned where it is visible to their passenger and the driver must wear their badge.

To assist with the enforcement of restricted private hire licences, the following two offences have been added to the Penalty Points Tariff under Appendix G paragraph 2.2 of the draft policy and have been awarded the maximum 10-12 points.

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

#### 4.17 Hackney Carriage (Taxi) Fares

At the extraordinary meeting of the Licensing Committee on 12<sup>th</sup> May Members resolved:

(1) That the current maximum scale of fares for licensed hackney carriages operating within the borough (taxi tariff) remained, taking into consideration comments received during the statutory consultation, and the soilage charge be increased.

(2) That the agreement to automatically annually increase the taxi tariff based upon the National Rail fares increase be amended so this is carried out biannually

[Agenda for Licensing Committee on Monday, 12 May 2025, 7.00 pm](#)

On point (2) the Licensing team would like to seek clarification from members whether as the proposed increase was declined this year the biannual increases would begin in 2026 (two years from the last increase) or in 2027 (two years from the decision).

In addition, Officers would request a steer from members as to whether the increase would be accumulative, based on the percentage increase for two years National Rail Fare increases or simply for the current year.

## 5 Alternative Options

5.1 If the modified proposals for the Swale Hackney Carriage (Taxi) and Private Hire Licensing Policy are not considered suitable then Members could:

- a) revert to the original taxi policy or;
- b) request that licensing officers look at the draft proposals again and return to this committee with a further draft at a later date.
- c) Members could choose to adopt the modified proposals contained within the draft policy with the exception of those relating to vehicle specifications whereby they could choose to retain the date of 1<sup>st</sup> April 2027 set within the current taxi policy relating to new vehicle applications being for ULEVs or adopt their own preferences.
- d) Members could choose to adopt the modified proposals contained within the draft policy with the exception of the proposal for Restricted Private Hire Licences or adopt their own preferences.

## 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> <p>Running the Council - Working within our resources to proactively engage with communities and outside bodies to deliver in a transparent and efficient way.</p>
Financial, Resource and Property	<p>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.</p>
Legal, Statutory and Procurement	<p>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</p>

	<p>single licensing statement or policy for taxi and private hire vehicle licensing that brings together all their procedures in one place.</p> <p>Rights of appeal are granted to all applicants and licensees who are aggrieved by any licensing decisions.</p> <p>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.</p>
Crime and Disorder	<p>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.</p> <p>A published policy setting out how the council will achieve these aims is seen as an important regulatory tool.</p>
Environment and Climate/Ecological Emergency	<p>The draft policy has considered environmental sustainability with regards to emissions from vehicles and the council's commitment to be carbon neutral by 2045.</p>
Health and Wellbeing	<p>The health of the residents of the borough could be improved by addressing vehicle emissions. Also, by ensuring public safety.</p>
Safeguarding of Children, Young People and Vulnerable Adults	<p>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.</p> <p>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.</p>
Risk Management and Health and Safety	<p>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.</p>
Equality and Diversity	<p>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</p>

	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: Draft Swale BC Statement of Hackney Carriage and Private Hire Licensing policy
- Appendix II: Summary of proposed changes to the policy
- Appendix III: Consultation Grid

## 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

The Energy Saving Trust – A step-by step guide to local authorities on transitioning the taxi trade to electric vehicles <https://energysavingtrust.org.uk/wp-content/uploads/2022/10/Transitioning-the-taxi-trade-to-electric-vehicles-A-step-by-step-guide-for-LAs.pdf>

**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:

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Date:

Approved by:

Date:

**Changes and Corrections**

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

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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 **15<sup>th</sup> September 2025** after it has been fully consulted upon and received formal approval from the council's Licensing 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** Fare rates are automatically increased annually and the increase is based upon the National Rail fare increase, subject to the required statutory consultation. 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 once a year 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](http://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](mailto: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](#)

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**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, all new vehicle licence applications must be for vehicles that are ultra-low emission (ULEV) i.e.: less than 75 grams of CO<sub>2</sub>. 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](mailto: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:

<b>Documents to be supplied to Licensing, Swale Borough Council</b>	<b>When documents must be supplied</b>
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: <a href="https://www.gov.uk/government/publications/licensing-authority-guide-to-right-to-work-checks">https://www.gov.uk/government/publications/licensing-authority-guide-to-right-to-work-checks</a>	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 3<sup>rd</sup> 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](mailto: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 ~~or if the licence holder surrenders the licence early~~, 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* (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](http://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

<b>Town Police Clauses Act 1847</b>	
<b>Section</b>	<b>Offence</b>
<b>Maximum Penalty Points 2-5</b>	
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
<b>Maximum Penalty Points 6-9</b>	
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
<b>Maximum Penalty Points 10-12</b>	
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

<b>Local Government (Miscellaneous Provision) Act 1976</b>	
<b>Section</b>	<b>Offence</b>
<b>Maximum Penalty Points 2-5</b>	
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
<b>Maximum Penalty Points 6-9</b>	
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
<b>Maximum Penalty Points 10-12</b>	
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

<b>Swale Borough Council's Hackney Carriage and Private Hire Licensing Policy</b>	
<b>Offence</b>	
<b>Maximum Penalty Points 2-5</b>	
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	
<b>Maximum Penalty Points 6-9</b>	
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
<b>Maximum Penalty Points 10-12</b>
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 3<sup>rd</sup> 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 .

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**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 application<sup>9</sup>.

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 2<sup>nd</sup> authority) data protection procedures are satisfactory, consideration will then be given as to what information will be disclosed<sup>16</sup>. 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 1<sup>st</sup> 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*"<sup>17</sup> [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.

## APPENDIX II

**Table of Amendments and Insertions to the draft Swale BC Hackney Carriage and Private Hire Licensing Policy 2025 -2030 incorporating changes included in the DfT Best Practice Guidance issued November 2023**

<b>Policy Section No and Title where applicable</b>	<b>Current wording within policy</b>	<b>Amended or inserted wording to be used within policy</b>	<b>Amendments following consultation</b>
Throughout the whole Policy and Appendices	Throughout the whole Policy and Appendices there have been minor amendments due to typographical errors or to improve grammar.	The majority of amendments to the policy are to incorporate the DfT 2023 Best Practice Guidance to which all licensing authorities must have regard in carrying out their licensing functions and to provide greater clarity or to use clearer language	
<b>1.1.2</b> Legislation	Various taxi licensing legislation	Additional Acts relating to taxi licensing included for clarity <ul style="list-style-type: none"> <li>• The General Data Protection Regulations 2018</li> <li>• The Deregulation Act 2015</li> <li>• Human Rights Act 1998</li> <li>• Road Traffic Acts</li> <li>• The Police and Crime Act 2017</li> <li>• The Taxis and Private Hire Vehicles (Safeguarding and Road Safety) Act 2022</li> <li>• The Taxis and Private Hire Vehicles (Disabled Persons) Act 2022</li> </ul>	
<b>1.2.3</b>	In 2010 the DfT's Guidance was updated, and this policy revision takes the 2010 version into account	In November 2023 the DfT's Guidance was updated, and this	

		policy revision takes the 2023 version into account.	
<b>1.2.5</b>	a) Adopting the standards set out within the Statutory Taxi and Private Hire Vehicle Standards, where they are not already in place	a) Adopting the DfT's 2023 Guidance where it is considered applicable and necessary.	
<b>1.2.7</b>	<p>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:</p> <ul style="list-style-type: none"> <li>a) Keeping Swale safe</li> <li>b) Engaging and empowering communities within the Borough</li> <li>c) Driving the economic development of the Borough</li> <li>d) Ensuring a strong customer focus and delivering quality frontline services</li> </ul>	<p>Amended in line with the Swale BC Corporate Plan 2023 – 2027</p> <p>Visionary goals are now:</p> <ul style="list-style-type: none"> <li>a) To enable our residents to live, work and enjoy their leisure time safely in our borough and to support community resilience</li> <li>b) Working with businesses and community organisations to work towards a sustainable economy which delivers for local people</li> <li>c) To provide a cleaner, healthier, more sustainable and enjoyable environment, and to prepare our borough for the challenges ahead</li> <li>d) Working within our resources to proactively engage with communities and outside bodies to deliver in a transparent and efficient way</li> </ul>	
<b>1.2.8</b>	The Council currently in 2021 licenses approximately 298 drivers. There are approximately 178 hackney carriage vehicles and approximately 38 private	<p>Figures updated</p> <p>The Council currently in 2025 licenses approximately 324 drivers. There are approximately 182 hackney</p>	

	hire vehicles. There are 32 private hire operators.	carriage vehicles and approximately 68 private hire vehicles (including 30 executive vehicles). There are 34 private hire operators	
New paragraph <b>1.2.9</b>		<p>Inserted for clarity</p> <p>Definitions of the various licences issued are:</p> <ul style="list-style-type: none"> <li>• 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.</li> <li>• 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 stand at ranks. Bookings must be made in advance via a private hire operator licensed by the same authority. It cannot ply for hire.</li> <li>• Restricted Private Hire vehicle – Private Hire vehicles with conditions applied restricting their use.</li> <li>• 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.</li> </ul>	<p>Correction</p> <ul style="list-style-type: none"> <li>• 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.</li> </ul>

		<ul style="list-style-type: none"> <li>• 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.</li> <li>• Dual Hackney Carriage/Private Hire Driver licence – The individual is licenced to drive both Swale-licensed hackney carriages and private hire vehicles.</li> <li>• Private Hire Driver licence – The individual is licenced to drive private hire vehicles only.</li> <li>• Restricted Private Hire Driver licence – The individual is licenced to drive restricted private hire vehicles only.</li> </ul>	
1.3.2	Licensing objectives	<p>Additional objectives added:</p> <ul style="list-style-type: none"> <li>e) The safeguarding of children, young and vulnerable persons</li> <li>f) Encouraging environmental sustainability</li> </ul>	
1.4.2	<p>This policy will take effect on ***** after it has been fully consulted upon and received formal approval from the council's Licensing Committee. It will remain in existence for a period of five</p>		<p>Updated to include date and P&amp;R Committee</p> <p>This policy will take effect on 15 September 2025 after it has been fully consulted upon and received formal approval from the council's Licensing Committee and Policy</p>



	years, during which time it shall be kept under review and revised as appropriate or after any significant legislative change		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
<b>2. Vehicles</b>	<p><b>2.4.2</b> In June 2019, the Council declared a climate and ecological emergency and committed to becoming a carbon neutral borough by 2030. The climate change and ecological emergency action plan contains an action to “promote business fleet decarbonisation, including the potential cost and reputational benefits” The timescale for this action is medium term which is completion between the end of 2023 and the end of 2027. In addition 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.</p>		<p>Updated:</p> <p><b>2.4.2</b> 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.</p>

<p><b>2. Vehicles</b></p>	<p><b>2.5.1</b> 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. 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.</p> <p><b>2.5.4</b> New paragraph</p>	<p><b>2.5.1</b> 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.</p> <p><b>2.5.4</b> 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.</p>	
<p><b>2. Vehicles</b></p>	<p><b>2.9</b> Contract Vehicles</p> <p><b>2.9.1</b> Previously there was no requirement for a vehicle to be licensed where it was used for a contract with an organisation/firm for a period of more than seven days for carrying passengers</p>		<p>Section <b>2.9.1</b> Deleted no longer relevant</p> <p>Sections <b>12.10 – 12.16</b> renumbered accordingly</p>

	<p>for hire or reward under a contract for the hire of the vehicle. This exemption only applied to the vehicle and driver subject to the contract and then only during the period of the contract. Any vehicles being used for a contract with one firm could not be used for any other contract or purpose during the period of that contract. This exemption has been repealed by provisions contained within the Road Safety Act 2006 that became effective in January 2008 and amended the Local Government Miscellaneous Provision Act 1976 (S.75), thus vehicles which previously took advantage of this exemption will now have to become licensed private hire vehicles.</p>		
<b>2. Vehicles</b>	<p><b>2.12</b> Ambulances and Other Patient Transport</p> <p><b>2.12.1</b> All ambulances registered with the British Ambulance Association will be exempt from private hire licensing.</p>		<p>Sections <b>12.10 -12.16</b> renumbered</p> <p><b>2.11</b> Ambulances and Other Patient Transport</p> <p><b>2.11.1</b> 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.</p>

	<p><b>2.12.2</b> Other patient transport that is registered with the British Ambulance Association will be exempt from private hire licensing. These services include:</p> <ul style="list-style-type: none"> <li>a) Primary Care Trusts</li> <li>b) Voluntary services</li> </ul>		<p><b>2.11.2</b> 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:</p> <ul style="list-style-type: none"> <li>a) Primary Care Trusts</li> <li>b) Voluntary services</li> </ul>
<p><b>3. Drivers</b></p> <p><b>3.1 Licences</b></p>		<p>New paragraphs added <b>3.1.1 – 3.1.3</b> And following paragraphs renumbered</p> <p><b>3.1.1</b> In order to drive a hackney carriage or private hire vehicle, the driver must also be licensed by the same Council.</p> <p><b>3.1.2</b> 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.</p> <p><b>3.1.3</b> A Restricted Private Hire Driver's licence may also be issued for the purpose of carrying out school contract runs, or other limited and specified work, only in a Swale-licensed restricted private hire</p>	<p><b>3.1.3</b> 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</p>

		<p>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.</p>	<p>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.</p>
<p><b>3.3 Driver Knowledge Tests</b></p>	<p><b>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. 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.</b></p>	<p><b>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.</b></p>	

		<p>New paragraph added:</p> <p><b>3.3.3</b> Those applicants applying for Restricted Private Hire licence who will undertake school run contracts 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.</p>	<p><b>3.3.3</b> 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.</p>
<p><b>3.9</b> Grant and renewal of licences</p>	<p><b>3.9.1</b> 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.</p>	<p>To allow for greater flexibility in licence periods for drivers over 65:</p> <p><b>3.9.1</b> 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</p> <p>New paragraph added:</p> <p><b>3.9.6</b> 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</p>	

		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.	
<b>3.13</b> Disability Training		<p>New paragraphs inserted in line with the DfT 2023 Guidance:</p> <p><b>3.13</b> Disability Training</p> <p><b>3.13.1</b> 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.</p> <p><b>3.13.2</b> 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.</p>	
<b>4.8</b> Sub-contracting	<b>4.8.1</b> In accordance with the Deregulation Act 2015, a Private Hire	<p>Reworded for greater clarity:</p> <p><b>4.8.1</b> Section 55A of the Local Government (Miscellaneous</p>	<b>4.8.1</b> Section 55A of the Local Government (Miscellaneous

	Operator is permitted to subcontract a booking to another operator who is licensed in a different licensing district.	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.	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)
<b>5.1 Fares</b>	<p><b>5.1.1</b> Fare rates are reviewed following discussions with the trade or any section of the trade. The fares will not normally be reviewed more than once a year unless there are exceptional circumstances which would justify a further increase, for example a particularly sharp increase in petrol/diesel prices.</p>	<p>Paragraphs amended or deleted in line with a decision of the Licensing Committee of Swale BC on 4 October 2022:</p> <p>Amended:</p> <p><b>5.1.1</b> Fare rates are automatically increased annually, and the increase is based upon the National Rail fare increase, subject to the required statutory consultation. 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</p>	



	<p><b>5.1.2</b> When determining the level of fares consideration will be given as to what it is reasonable to expect the travelling public to pay as well as the need to give drivers an incentive to provide a cost-effective service at the times it is needed.</p> <p><b>5.1.5</b> In reviewing the fare tariff the Council will consult with the trade and follow the appropriate procedures in the Local Government (Miscellaneous Provisions) Act 1976.</p>	<p>appropriate. The fares will not normally be reviewed more than once a year unless there are exceptional circumstances which would justify a further increase, for example a particularly sharp increase in petrol/diesel prices.</p> <p>Paragraph <b>5.1.2</b> deleted and following paragraphs renumbered</p> <p><b>5.1.5</b> Amended and renumbered:</p> <p><b>5.1.4</b> In reviewing the fare tariff the Council will follow the appropriate procedures in the Local Government (Miscellaneous Provisions) Act 1976.</p>	
<b>5.4 Refunds</b>	<p><b>5.4.1</b> In the case of any licence where the licence holder surrenders their licence prior to the expiry date, there will be no refund in respect of the unexpired portion of the licence fee.</p>	<p>Amended to be fairer to licensees:</p> <p><b>5.4.1</b> 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.</p>	
<b>Appendix A</b> <b>2. Age</b>		Amended for greater clarity and to include the ability for the 'life' of a	

	<p><b>2.1</b> All vehicles will be licensed for up to 10 years from the date of first registration with the exception of purpose built and multi-seat vehicles with wheelchair accessibility which can be licensed for up to 15 years from first registration.</p> <p><b>2.2</b> 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.</p> <p><b>2.6</b> From 1 April 2027, all new vehicle licence applications must be for vehicles that are ultra-low emission (ULEV) i.e.: less than 75 grams of CO2. ULEV</p>	<p>licensed vehicle to be extended on a case-by-case basis:</p> <p><b>2.1.</b> All vehicles that are licensed for 4-6 passengers will be licensed for up to 10 years from the date of first registration.</p> <p><b>2.1.2</b> 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.</p> <p><b>2.2</b> 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.</p> <p><b>2.3</b> 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.</p>	<p>Date amended:</p> <p><b>2.6</b> From 1 April 2035, all new vehicle licence applications must be for vehicles that are ultra-low emission (ULEV) i.e.: less than 75</p>
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	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).		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).
<b>Appendix A</b> <b>4. Body</b>	Signage:  <b>4.8</b> Signs are not mandatory on Private Hire vehicles but can be fitted if desired. It is suggested best practice to do so. The size and style will be subject to the approval of an authorised officer.	Amended:  <b>4.8</b> 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”.	
<b>Appendix A</b> <b>18. Insurance</b>	<b>18.1</b> If a cover note rather than a ‘full’ insurance certificate is presented, a Hackney Carriage Licence/Private Hire licence will not be issued. A faxed 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).		Updated:  <b>18.1</b> 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).
<b>Appendix A</b> <b>23. <u>Conditions that apply to Restricted Private Hire Vehicles only</u></b>		New paragraphs: Sections 23 to 29 renumbered 24 to 30 accordingly	Amended:

		<p><b>23.1</b> A restricted private hire vehicle will only be licenced for contracted school runs or on written agreement with Swale Borough Council Licensing for specialised contract work for executive car hire.</p> <p><b>23.2</b> Applications for new and renewal restricted private hire vehicle licences must be accompanied by evidence of a school run contract between a Swale licenced private hire operator and the local education authority unless a written agreement with Swale Borough Council Licensing for specialised executive car hire is in place.</p> <p><b>23.3</b> Restricted private hire vehicles are not permitted to be fitted with a taximeter.</p>	<p><b>23.1</b> 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.</p> <p><b>23.2</b> Applications for new and renewal restricted private hire vehicle licences must be provide 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.</p>
<p><b>Appendix A</b>  <b>25.</b> Signage  renumbered <b>26</b></p>	<p><b>25.7</b> 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</p>		<p>Updated to allow greater flexibility to allow inclusion of additional high end brands and electric high end vehicles:</p> <p><b>26.7</b> The only exception to not displaying the external plate is with the provision of an exempted plate that is pre-approved by an</p>

	<p>requirements set the standard for this approval;</p> <ul style="list-style-type: none"> <li>a) Vehicles that can have an exempted plate will generally be the accepted luxury brands such as Rolls Royce and Bentley. The highest specification executive type cars from other high-end manufacturers may also be considered following inspection and approval from an authorised Officer.</li> <li>b) The vehicle must have no visible defects, dents or blemishes to the external bodywork or internal trim.</li> <li>c) The exemption letter must always be carried in the vehicle at all times</li> </ul>		<p>authorised Officer. The following requirements set the standard for this approval;</p> <ul style="list-style-type: none"> <li>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.</li> <li>b) The vehicle must have no visible defects, dents or blemishes to the external bodywork or internal trim.</li> <li>c) The exemption letter must always be carried in the vehicle at all times</li> </ul>
<p><b>Appendix A</b>  <b>26. Advertising</b>  Renumbered <b>27</b></p>	<p><b>26.1</b> 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</p>	<p>Amended as door signs for Private Hire vehicles to state 'Pre-booked only' are now mandated</p> <p><b>27.1</b> 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</p>	

	Hackney vehicles and Proprietors are allowed to also display company details on the rear of vehicles. Door signs are not mandatory on Private Hire vehicles.	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.	
<b>Appendix A</b> <b>28. Breakdowns</b> <b>Renumbered 29</b>	<p><b>28.1</b> If, whilst hired, the vehicle breaks down or otherwise becomes unfit or unable to carry the hirer to his/her destination the proprietor must;</p> <ul style="list-style-type: none"> <li>a) secure, without delay, suitable alternative transport 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</li> <li>b) report the occurrence to the Council within 24 hours.</li> </ul>		<p>Amended:</p> <p><b>29.1</b> If, whilst hired, the vehicle breaks down or otherwise becomes unfit or unable to carry the hirer to his/her destination the proprietor must;</p> <ul style="list-style-type: none"> <li>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</li> </ul> <p>report the occurrence to the Council within 24 hours</p>
<b>Appendix B</b> <b>4. Signage</b>	<p><b>4.1</b> The vehicle will not be required to display the rear, external private hire vehicle licence plates which must normally be displayed by licensed private hire vehicles. The proprietor of the vehicle will be issued, by the Council,</p>		<p>Amended:</p> <p><b>4.1</b> 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</p>

	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:		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:
<b>Appendix C</b> <b>6. DBS checks</b>	<b>6.1.9</b> Licences will not be issued until such times as the Council has sight of a satisfactory returned DBS check. Swale Council will not issue temporary badges as a result of delayed checks. It will be the driver's responsibility to make sure they have joined the DBS Update Service to be able to renew their licence on time.	Amended (due to extreme delays with the return of checks from the DBS service. This only applies to applicants who require a manual DBS check. Most individuals are signed up to the DBS update service which allows the council to undertake online checks every six months).  <b>6.1.9</b> 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.	Amended:  <b>6.1.9</b> 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.

	<p><b>6.1.16</b> When a driver is applying for the renewal of their licence where a DBS check is required, attention is drawn to the fact that the badge renewal will not be issued until such times as the Council has sight of the original satisfactory DBS check. Should there be a period of time between the expiry of the existing badge and the return of the DBS check, drivers will not be able to work and will be required to return their badge to the Council within 5 working days of the expiry date.</p>	<p><b>6.1.16</b> Deleted as no longer applies.</p>	
<p><b>Appendix D</b> Guidelines relating to relevance of previous convictions, offences, prosecutions and cautions</p>	<p><b>16.2.</b> In particular, an application will normally be refused where the applicant has 6 or more penalty points on his DVLA licence (whether or not the applicant was convicted by a court for the offences for which the points were imposed) or where the applicant has more than one offence, conviction prosecution or caution for this type of offence within the last 6 months.</p> <p><b>24.</b> The Rehabilitation Period of Sentences</p>	<p>Amended:</p> <p><b>16.2.</b> 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.</p> <p><b>24.</b> Completely amended to align with government legislation that came into force on 28<sup>th</sup> October 2023</p>	
<p><b>Appendix E</b> Driver Knowledge Tests</p>		<p>Complete Appendix revised to reflect changes to how Street Knowledge Tests are conducted.</p>	



<b>Appendix F</b> Private Hire Driver's Licence Conditions		<p>New section added</p> <p><b>5. Conditions Applicable to Restricted Private Hire Drivers</b></p> <p><b>5.1</b> 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.</p> <p><b>5.2</b> 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.</p> <p><b>5.3</b> Applications for new and renewal restricted private hire driver licences must be accompanied by evidence of a school run contract between a Swale licenced private hire operator and the local education authority unless a written agreement with Swale Borough Council Licensing for specialised executive car hire is in place.</p>	<p>Amended:</p> <p><b>5.3</b> 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</p>
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		<p><b>5.4</b> 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 the local education authority school run contract 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.</p>	<p>work as a licenced restricted private hire driver.</p> <p><b>5.4</b> 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.</p>
<p><b>Appendix I</b> Private Hire Operators Licence Conditions</p>		<p>New paragraph added:</p> <p><b>12.</b> Restricted Private Hire Operators and Drivers</p> <p><b>12.1</b> 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 .</p>	
<p><b>Appendix G</b> Penalty Points System</p>			<p>New offences added to the table of penalty points at <b>2.2</b> Hackney Carriage and Private Hire Licensing Policy</p>

			<p><b>Maximum Penalty Points 10-12</b> Driving a standard private hire vehicle when licenced as a restricted private hire only driver</p> <p><b>Maximum Penalty Points 10-12</b> Permitting the use of a restricted private hire vehicle for work other than the contract work permitted by the licence</p>
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## CONSULTATION RESPONSE GRID

Status of Consultee	Comments	Section of Policy	Officer Comments and Recommendations
Operator	<p>“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 stand at ranks. Bookings must be made in advance via a private hire operator licensed by the same authority. It cannot ply for hire.”</p> <p>What is meant by it may stand at ranks?</p> <p>“Restricted Private Hire vehicle – Private Hire vehicles with conditions applied restricting their use.”</p> <p>What is a restricted private hire vehicle/license?</p>	1.2.9	<p>Noted. This is an error wording has been changed in the draft policy</p> <p>Noted: A proposal for restricted private hire vehicle and driver licences is included in section 4 of the main report</p> <p>Description of the proposal for restricted private hire vehicle and driver licences provided to Operator.</p> <p>A proposal for restricted private hire vehicle and driver licences is included in section 4.14 – 4. of the main report</p>
Janet Hill Climate Change Officer	the target for being net zero carbon has changed to 2045 from 2030 (this should be adopted by the Environment Committee on 18 <sup>th</sup> March)	2.4.2 Appendix A 2.6	Please see section 4.6 – 4.13 of the main report for comments
Ward Cllr	<p>The note below from one of my residents is self explanatory. He feels a restricted licence is the best fit for his business and would like the council to consider this.</p> <p>If there is no policy specifically allowing officers to make a determination, then can this please be brought to the Licencing Committee by way of a report at the earliest opportunity. I have copied the Committee Chairman, Cllr Carnell for convenience.</p> <p>A Restricted Licence which includes DBS Check, Medical, Vehicle Checks, MOT, Insurance and Driving Licence Checks.</p>	3.1.3, 3.3.3 Appendix A 23.1, 23.2 Appendix F 5.3, 5.4	Noted: A proposal for restricted private hire vehicle and driver licences is included in section 4.14 – 4. of the main report
Operator			

## CONSULTATION RESPONSE GRID

	<p>This would greatly improve my chances of employing drivers as the other checks are not fit for purpose for this contract with Peel Ports.</p> <p>Peel Ports and the Marine Pilots have also offered to support this by writing a supporting letter for this request.</p> <p>Subject: Proposal for a Restricted Taxi License</p> <p>I hope this letter finds you well. I am writing on behalf of [REDACTED], a local company that has been providing transportation for Maritime Pilots between ports on behalf of Peel Ports for over 20 years. In recent years, we have encountered significant challenges in recruiting new drivers, a process which has been further complicated by stringent licensing requirements that we believe are not relevant to the specific nature of the work we do.</p> <p>One of the primary obstacles in our recruitment efforts is the requirement for new hires to pass a local knowledge test in order to obtain a taxi license. Given that our drivers are responsible only for transporting Maritime Pilots between ports, we feel that local knowledge of areas such as supermarkets and nightlife is unnecessary and does not align with the specialised, on-call nature of our work.</p> <p>To illustrate the impact of this requirement, we recruited our most recent driver in June. However, due to the need to pass the local knowledge test, and DBS checks we were unable to offer them a position until January. As I'm sure you can appreciate, a six-month waiting period from recruitment to starting a position is a significant deterrent to potential candidates and has hampered our ability to fill vacancies in a timely manner.</p> <p>Our drivers operate on an on-call basis, working a specific number of hours within a 24-hour period. Some of the most</p>	<p>3.1.3, 3.3.3 Appendix A 23.1, 23.2 Appendix F 5.3, 5.4</p>	<p>Noted: A proposal for restricted private hire vehicle and driver licences is included in section 4.14 – 4. of the main report</p>
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## CONSULTATION RESPONSE GRID

	<p>common routes include trips between Sheerness Docks and Ramsgate and Harwich, as well as Scotline on Medway City Estate. These trips are solely for the purpose of transporting Maritime Pilots from Peel Ports, and therefore, there is no requirement for our drivers to have local knowledge beyond these routes.</p> <p>In an effort to streamline our recruitment process and ensure that we can continue providing essential services to Peel Ports, we would like to propose that the council consider granting [REDACTED] a restricted taxi license for Marine Pilots only. This restricted license would allow our drivers to operate solely for the purpose of transporting Maritime Pilots between ports, while excluding other types of taxi work. This would help us avoid the current barriers posed by the local knowledge test and allow us to hire drivers more efficiently, ensuring that we can continue supporting the local maritime industry.</p> <p>We believe this proposal would benefit both our company and the local economy, and we would be grateful for your support in considering this adjustment to the current licensing requirements.</p> <p>Thank you for your time and consideration. We look forward to the possibility of discussing this proposal further and working together to find a solution that benefits all parties involved.</p>		
NPHTA	<p>Good morning, i have had a quick glance so far at this, and notice quite a serious error that may benefit from amendment whilst a live document and at consultation stage, it would appear someone missed the word "not" to make it read "may not sit on ranks" for private hire.</p>	1.2.9	Noted. This is an error wording has been changed in the draft policy

## CONSULTATION RESPONSE GRID

	<p>I also notice the suggestion in the subject of CCTV of "approved by", do you have such an approved list? If not then this may need to be amended, either to have an approved list, not only to assist licensees in identifying a compliant product / device / suppliers, but also to reduce burden on officer time to review each and every request, also might be worth noting and including somewhere, that since the condition is must satisfy and comply with ICO regulations, this rules out the use of dashcams for any internal recording at all, even if this is just audio, audio is internal recording and is therefore not compliant.</p> <p>I will review the rest in more detail after consulting with members and respond accordingly if there are more aspects of concern as we read with more detail.</p>	2.6.1 – 2.6.5	<p>There is on wording within this section of the policy regarding CCTV that states CCTV must be “approved by” Licensing officers 2.6.6 refers to drivers installing a protective screen/shield around the driving seat, the make, type and design must be approved by authorised officers of the Council, we do not have an approved list for screens/shields</p> <p>On checking the ICO guidance does not prohibit the use of internal cameras, but uses the example that the recordings should not be continuous and be capable of being switched off for example if the driver is using the vehicle for private use. Audio is considered particularly intrusive and should only be used in exceptional circumstances so if fitted must be switched of and only activated when justified <a href="#">Additional considerations for technologies other than CCTV   ICO</a></p> <p>The impetus is on the taxi operator to ensure they are complying with the regulations.</p>
Operator	<p>I have read through the policy and would like to congratulate you on listening to the trade and DFT more than in previous years.</p> <p>Especially relating to the point of extending the life of vehicles past the current age limit and the new school-only driver badge &amp; vehicle.</p> <p>The only thing that jumps out at this moment that is a concern to me is regarding Signage 4.8 PH vehicles to be fitted with permanent signage on the front doors stating "Pre-booked only"</p>	Appendix A 4.8	Operators have the option of licensing executive vehicle which are exempt from the requirement to display plates or signage.



## CONSULTATION RESPONSE GRID

	We have a customer base that likes the fact that our PH vehicles are discreet, not showing that they are getting out of a taxi/minicab/PH.		
Operator	<p>In regards to the new taxi policy proposal, my biggest concern is the proposal on Appendix A 2.6, From 1st April 2027 lowering the CO2 emissions to 75gms, by lowering this to 75gms makes buying hybrid vehicles unattainable, most importantly MPV's and Wheelchair access vehicles which there are Hybrids available, most of our fleet 95% is made up of</p> <p>MPV's and Wheelchair vehicles, at this current time there are no electric 9 seater vehicles and I believe from talking to dealerships there is nothing in the pipeline to produce wheelchair electric vehicles, also to take in account is the cost,</p> <p>for instance we recently purchased 2 brand new seven seat Hybrid MPV's Dacia Jogger's costing £23700 each and a CO2 108g which we will not be able to purchase after 1st April 2027, currently a seven seater (PHEV) plug-in vehicle a Hyundai Santa Fe £55k, Mazda CX80 £55k and a Volvo XC90 £75k when you look into EV's prices are in most cases are around the same price, there are not many choices in the EV and plugin vehicles for MPV'S, There is no viable way to make these worth the investment, we would not be able to reinvest and maintain a fleet at these costs, although the cost of vehicles have increased substantially in the last 8 years some have almost doubled, you can</p> <p>already see the impact of higher vehicle costs by the amount of Taxi's licenced with Swale council currently according to</p>	2.4.2 Appendix A 2.6	Please see section 4.6 – 4.13 of the main report for comments

## CONSULTATION RESPONSE GRID

	<p>your policy there is in total 216 Hackney and PH vehicles and 293 drivers, In 2018 /2019 there was 326 vehicles licenced with Swale a difference of 110 taxis around 33% less now, with this policy being implemented in 2027 to lower CO2 to 75gms will see less and less vehicles being licenced.</p> <p>I would ask the council to delete the CO2 emissions limit altogether and implement instead "you will not licence any Diesel or Petrol euro 6 vehicles after 1st April 2027" with the uncertainty of the government in regards to now looking at keeping hybrids I hope this proposal would be a better option'</p>		
Public Transport Kent	<p>2.9 Given the period of time since the applicable legislation has been repealed, it may be that there is no on-going need to refer to it.</p> <p>2.12 Registration with the BAA shouldn't in itself permit the vehicle to be used for anything other than the operation of an Ambulance service - 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" and Medical Treatment is "Treatment given by a Person who's name appears on the Statutory Register", and "A place of Medical Treatment may be any place where such a person who's name is on the statutory register is in attendance for the purpose of which".</p> <p>From the County Council's perspective, we would need to avoid the situation where an 'ambulance' is exempted from licensing but then operates a 'non-ambulance' service for</p>	<p>2.9 – 2.91</p> <p>2.12.1 – 2.12.2</p>	<p>Agreed – removed from policy</p> <p>Agreed – wording amended on the policy.</p>

## CONSULTATION RESPONSE GRID

	<p>hire and reward, eg conveying children between home and school.</p> <p>3.1.3, 3.3.3 , Appendix A 23.1, 23.2 and Appendix F 5.3, 5.4 Reference to 'client transport services operated under contracted to a Local Authority' might be more encompassing than 'school runs/ school run contract/school contract run'.</p> <p>4.8 Whilst the 1976 Act covers this point adequately, it would be helpful to reference that some contractual obligations into which they may enter might preclude the sub-contracting of services and that it is incumbent upon them to ensure they are permitted to do so under the terms of that contract</p> <p>Appendix A 18.1 presumably an emailed version of the certificate would be acceptable</p> <p>23.2 and Appendix F 5.3 It may not be possible for a PH Operator to demonstrate that they hold a specific contract at the time of application; the County Council will not award a contract to an Operator/driver if they are not licenced.</p> <p>26.7 and Appendix B 4.1 The County Council <u>always</u> requires an external plate to be displayed when operating a contracted client transport service so that the vehicle is readily identifiable to the client's parent/carer and the school. Suggest that 'unless required by the hirer' be added.</p>	<p>3.1.3, 3.3.3 Appendix A 23.1, 23.2 Appendix F 5.3, 5.4</p> <p>4.8.1</p> <p>Appendix A 18.1</p> <p>23.2 and Appendix F 5.3</p> <p>26.7 and Appendix B 4.1</p>	<p>Agreed – wording amended on the policy.</p> <p>Agreed – wording amended on the policy.</p> <p>Noted. - wording amended on the policy.</p> <p>Please see section 4.14 – 4. of the main report for comments.</p> <p>Noted. The hirer contract should make this clear to the vehicle operator and the operator should not enter into the contract if they are not willing to abide by the terms and conditions of said contract</p>
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## CONSULTATION RESPONSE GRID

	<p>29.1 Does 'suitable' in this context mean that the alternative must be licensed as a PH/HC?</p> <p>Appendix C</p> <p>6.1.9 We are concerned that a badge may be issued without having a current DBS check, which appears to conflict directly with 6.1.10 and is also contrary to general principles set out in 3.12.1 and Appendix D 1.7. It is understood that, on occasion, the delay in the DBS certificate being produced is because there is relevant information to be collated which itself might be cause for concern.</p>	<p>29.1</p> <p>6.1.9</p>	<p>Agreed – wording amended on the policy.</p> <p>Noted – Temporary Badges are only issued to existing drivers renewing their Badges or where a driver has not renewed their subscription to the update service. DBS checks are carried out via the DBS update service every 6 months, temporary Badges for renewing drivers would only be issued where a DBS certificate has been received or an update check has been completed within the last 12 months. Wording amended to include this point</p>
Operator/ Driver comments Face to Face meeting	<p>What is the disability awareness training? Why do we need it, we are taxi drivers not social workers? What does it involve? Why is it the drivers responsibility to be aware of hidden disabilities? Why should they have to pay for this training? Concerns that that extra training will put off older drivers.</p>		<p>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.</p> <p>Swale will therefore require that new applicants and existing drivers undertake training provided by an external company to learn or refresh skills. The aim is to provide drivers with a knowledge and understand of disabilities, their responsibilities and duty of care, information on how to load and secure passengers and wheelchairs and best practice to help them provide safe, secure transportation for all passengers.</p> <p>Officers have looked at different course options and have chosen an option that meets the recommendations of the DfT Guidance without as little time a monetary burden on drivers as possible. The course is delivered digitally, runs for approximately 3 hours and current cost of the course is £40</p>

## CONSULTATION RESPONSE GRID

Operator/ Driver comments Face to Face meeting	<p>We have Concerns about the introduction of the restricted private hire badge and restricted private hire vehicles, we don't think this is a good idea. Can operators drive the a vehicle with a restricted plate?</p> <p>Will there be an age limit for the vehicle as it will not be used as frequently as other vehicles? Could the vehicle licence be a 15 year licence?</p> <p>Will the plating fee be less as the vehicle will be restricted to school runs or contract work?</p> <p>Concerns that the system could be easily abused and be difficult to enforce.</p> <p>It's not possible to provide evidence of a school contract when applying for the licences as KCC require proof of river and vehicle licence before they will accept a tender for a school contract and it is a long process.</p>	3.1.3, 3.3.3 Appendix A 23.1, 23.2 Appendix F 5.3, 5.4	<p>Please see section 4.14 – 4. of the main report for comments.</p> <p>The holder of a dual hackney carriage/private hire driver licence or a private hire only driver licence would be able to drive a restricted private hire only vehicle but only for journeys that are part of the operators contract with KCC or other contract work that has been agreed with Licensing</p> <p>For a restricted private hire vehicle as with other licenced vehicles, any extension beyond the age limits specified in Appendix A 2.1, 2.1.2 and 2.2 will be considered on a case by case basis</p>
Operator/ Driver comments Face to Face meeting	<p>We have concerns about the dates for moving to electric vehicles:</p> <ul style="list-style-type: none"> <li>• The garages are not trained in electric vehicles, it limits which garages we can use, have to travel to Birmingham for the nearest garage for some vehicles and vehicles will be off the road longer for repairs.</li> <li>• Costs for electric vehicles are still too high, 50 – 60K for a plug in hybrid</li> <li>• Nearly impossible to get Wheel chair accessible vehicles as the batteries are located in the floor it prohibits the installation of the necessary fittings. The only feasible minibus option is a £90k Mercedes</li> </ul> <p>The road tax is £620 a year</p>		Please see section 4.6 – 4.13 of the main report for comments

## CONSULTATION RESPONSE GRID

	<ul style="list-style-type: none"> <li>The infrastructure is not in place there are not enough chargers at present</li> <li>Manufacturers recommendation that vehicles can only be fast charged a limited number of times as this reduces the battery life span.</li> <li>There are also recommendations that the battery is charged when it gets to 20% and only charged as high as 80% to prevent damaging the battery – this then only allows 60% of the battery life for use on journeys and reduces the vehicles range before it needs charging again.</li> <li>Customers may have to be refused for longer journeys if the vehicle doesn't have enough charge to complete the fare</li> <li>Drivers doing airport runs will have to stop at the services to charge the vehicle when they could be working on the rank, this is a waste of time and they would be losing money.</li> <li>The date for mandating EVs should be removed as there will be a natural progression, emissions will naturally reduce as new vehicle models come on to the market.</li> </ul>		
Operator/ Driver comments Face to Face meeting	Age limit for vehicles – with officer's deciding on a case by case basis This should not be based on mileage . I do not agree with the implementation of maximum mileage as some older vehicles have high mileage but have been well maintained.	Appendix A 2.1 – 2.3	Agreed – any extension beyond the age limits specified in Appendix A 2.1, 2.1.2 and 2.2 will be considered on a case by case basis following the provision of a recent MOT and hackney/private Hire vehicle garage test and inspection of the exterior body work and interior of the vehicle by Swale Licensing.
Operator/ Driver	Some customers do not want to use a marked vehicle but to plate a minibus as executive it would need to be a Mercedes	Appendix A 26.7	Licensing will consider each application for an executive plate on it's own merits. We would expect applications to be for high end

## CONSULTATION RESPONSE GRID

comments Face to Face meeting	and these are awful and expensive, the Ford Tourneo is much nicer.		brands such as Mercedes, but will accept other manufacturers on a case by case basis if the spec is luxury, for example leather interior.
Operator/ Driver comments Face to Face meeting	Can we check if drivers/vehicles have card machines when plating vehicles because drivers refuse a fare saying they have no card reader but they are using this as an excuse to refuse a fare because it's a short journey.	General Comment	<p>Card readers are not mandated, this is a business decision to be made by drivers and operators. There are certain locations within the borough where there is not a sufficient signal for a card reader and cash is the only option.</p> <p>Taxi drivers may only refuse a fare if 'there is reasonable excuse to do so'. Customers should be encouraged to report any refusals by drivers to the licensing team to investigate and take appropriate enforcement action.</p>

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<b>Licensing Committee Meeting</b>	
<b>Meeting Date</b>	14 <sup>th</sup> July 2025
<b>Report Title</b>	Draft Statement of Licensing Policy under the Licensing Act 2003
<b>EMT Lead</b>	Emma Wiggins, Director of Regeneration and Neighbourhoods
<b>Head of Service</b>	Charlotte Hudson, Head of Housing and Community Services
<b>Lead Officer</b>	Johanna Thomas, Licensing Team Leader
<b>Classification</b>	<b>Open</b>
<b>Recommendations</b>	<ol style="list-style-type: none"><li>1. Members to consider the draft Licensing Act 2003 policy and advise on any relevant amendments</li><li>2. Members to note the consultation process as outlined and advise officers to proceed with the same</li></ol>

## **1 Purpose of Report and Executive Summary**

- 1.1 This report provides Members with information and guidance on the revised draft Statement of Licensing Policy under the Licensing Act 2003, which requires Members comments and approval prior to formal public consultation.

## **2 Background**

- 2.1 Section 5 of the Licensing Act 2003 (2003 Act) requires licensing authorities to prepare and publish a statement of its licensing policy every five years. The policy must be published before the licensing authority carries out any licensing functions under the 2003 Act
- 2.2 The current Statement of Licensing Policy was approved by Full Council on 31<sup>st</sup> March 2021, came into effect on 1st April 2021 and will expire on 31<sup>st</sup> March 2026.
- 2.3 The policy was developed in close conjunction with all other licensing authorities and responsible authorities in Kent via the mechanism of the Kent and Medway Regulatory Steering Group and in accordance with the guidance issued under Section 182 of the 2003 Act and to which licensing authorities must have regard
- 2.4 The aim of the county wide approach was two-fold. Firstly, to promote consistency to the benefit of licensees, businesses, residents and to regulatory

services having a Kent-wide remit. Secondly to minimise risk of judicial review of individual policies.

- 2.5 The current policy has provided a stable but flexible background to the council's consideration of licensing applications and works well in promotion of the four licensing objectives:-

- Prevention of crime and disorder
- Protection of public safety
- Prevention of public nuisance
- Protection of children from harm

This is illustrated by the fact that the policy has not been legally challenged.

### **3 Proposals**

- 3.1 In drafting the revised Statement of Licensing policy, due regard has been taken to the current Section 182 Guidance. The draft policy is shown as **APPENDIX I**
- 3.2 The proposed changes made to the revised Statement of Licensing Policy, as shown in **APPENDIX II**, are all minor administrative changes to update statistics, remove out of date information and update contact information.
- 3.3 It is proposed that the revised policy will come into effect on 12 December 2025 and remain valid for a period of five years, until 11 December 2030 unless it becomes necessary to make further revisions beforehand following changes to legislation, statutory guidance or local circumstances.

### **4 Alternative Options**

- 4.1 There are no alternative options, the Licensing Act 2003 requires that a local authority must have an adopted policy before discharging its functions under the Act and specifies that consultation must be undertaken.

### **5 Consultation Undertaken or Proposed**

- 5.1 The Act and the Guidance require a consultation process prior to determining the Statement of Licensing Policy. The persons who must be consulted are:
- The chief officer of police for the area;
  - The fire and rescue authority for the area;

- Each local authority's Director of Public Health in England (DPH) of Local Health Board in Wales for an area any part of which is in the licensing authority's area;
  - Persons/bodies representative of local premises licence holders;
  - Persons/bodies representative of local club premises certificate holders;
  - Persons/bodies representative of local personal licence holders; and
  - Persons/bodies representative of businesses in its area
- 5.2 A consultation period of 8 weeks is proposed to run between 25 July 2025 and 19 September 2025. Methods of consultation will be by advertising on the Council's website and notice boards, in local newspapers and by direct email and mail shots. The results of the consultation will then be presented to a future meeting of the Licensing Committee.
- 5.3 All incoming responses will be entered onto a grid for consideration. The Policy & Communities Manager, together with licensing officers will conduct an evaluation of each response and give a recommendation as to whether or not to amend the policy statement and, if so, to what extent.
- 5.4 The grid and recommendations will be put before a meeting of the Licensing Committee on 16 October 2025 for consideration and inclusion of any amendments within the policy prior to formal adoption by full Council on 12 December 2025.

## 6 Implications

Issue	Implications
Corporate Plan	<p>The service is an important regulatory function undertaken to ensure compliance with the 2003 Act and to promote the licensing objectives.</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>Running the Council - Working within our resources to proactively engage with communities and outside bodies to deliver in a transparent and efficient way.</p>
Financial, Resource and Property	<p>The cost of consultation and publishing an updated policy will be met from within existing budgets. The Statement of Licensing Policy under the Licensing Act 2003 will not place and new financial resource implications on the Council</p>

Legal, Statutory and Procurement	Section 5 of the Licensing Act 2003 (as amended) requires a licensing authority to prepare and publish a statement of its policy every five years. During the five-year period, the policy must be kept under review
Crime and Disorder	Fulfilling powers and duties under the Licensing Act 2003 is of direct relevance to the Council's obligations under Section 17 of the Crime and Disorder Act 1998 in that the objectives of the Licensing Act 2003 are: a) The prevention of crime and disorder; b) The protection of public safety; c) The prevention of public nuisance; and The protection of children from harm
Environment and Climate/Ecological Emergency	No implications
Health and Wellbeing	Anti-social behaviour and noise nuisance can impact on the wellbeing of nearby residents
Safeguarding of Children, Young People and Vulnerable Adults	The protection of children from harm is one of the 4 licensing objectives that underpin the Licensing Act 2003 and must be considered when making decisions on licence applications.
Risk Management and Health and Safety	The publication of a Statement of Licensing Policy under the Licensing Act 2003 is a statutory requirement and failure to do so by the expiration of the current policy as required may lead to negative publicity and criticism from central government. Close adherence to the mandatory guidance in terms of policy development and consultation will minimise the risk of judicial review at a later date. This risk is further minimised by working in close co-operation with the other licensing authorities within Kent
Equality and Diversity	This policy includes provisions for licence holders to meet requirements contained in the Equality Act 2010
Privacy and Data Protection	All applications processes will be in line with privacy and data protection regulations

## 7 Appendices

- 7.1 Appendix I – Draft Statement of Licensing Policy 2026 – 2031  
Appendix II – Proposed Amendments to Licensing Policy

## 8 Background Papers

None

## Swale Borough Council



### Statement of Licensing Policy under the Licensing Act 2003

Version: 1.0

Dated:

Next scheduled review:

All enquiries relating to this document should be sent to:

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

[Licensing@swale.gov.uk](mailto:Licensing@swale.gov.uk)

## Issue & Review Register

Summary of changes	Issue number & date	Approved by
See Licensing Act 2003 committee report dated	V0.1	Licensing Act 2003 Committee
See Licensing Act 2003 committee report dated	V0.2	Licensing Act 2003 Committee

All changes to this document are tracked using a different colour and/or marked with a vertical line at the side of the page.

Compiled by:

Date:

Approved by:

Date:

### **Changes and Corrections**

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

Licensing  
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Sittingbourne  
ME10 3HT

Or

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## STATEMENT OF LICENSING POLICY

### INTRODUCTION

Every Licensing authority is required to produce a statement of licensing policy and to keep the statement under review. Swale Borough Council (the Council) is the Licensing Authority for the Swale area under the provisions of the Licensing Act 2003 (the Act). This is the Statement of Licensing Policy as determined by the Council in respect of its licensing functions under the Licensing Act 2003. This document sets out the position and view of the Licensing Authority in respect of matters in connection with the discharge of its licensing function including the administration of licensing applications, compliance with licensing conditions and enforcement when necessary.

This Statement of Licensing Policy commences on **XXXXXX** and continues for a five year period. During the five year period the Policy will be kept under review and the authority will make such revisions to it at such times as it considers appropriate. Further licensing statements will be published every five years thereafter or earlier as necessary. All references to the 'Guidance' refer to the latest version of the Home Office Guidance to Licensing Authorities issued under section 182 of the Licensing Act 2003.

The 2003 Act requires the Council to carry out its various licensing functions with a view to promoting the following four licensing objectives:

- **the prevention of crime and disorder;**
- **public safety;**
- **the prevention of public nuisance;**
- **the protection of children from harm.**

The aims of this Statement of Licensing Policy, in line with the four licensing objectives, are to:

- help build a fair and prosperous society that properly balances the rights of people and their communities with the needs of business.
- minimise any nuisance or disturbance to the public through the licensing process; integrate its aims and objectives with other initiatives, policies and
- promote strategies that will:
  - (1) reduce crime and disorder
  - (2) encourage tourism
  - (3) encourage an early evening and night time economy which is viable, sustainable and socially responsible;
  - (4) reduce alcohol misuse
  - (5) encourage employment
  - (6) encourage the self-sufficiency of local communities;
  - (7) reduce the burden of unnecessary regulation on business
  - (8) encourage and promote live music, dancing and theatre for the wider cultural benefit of communities generally.

The Council will endeavour to work with other Local Authorities to ensure that a consistent approach is taken in licensing matters, whilst respecting the differing needs of individual communities throughout the local authority area.

In the preparation of this policy the Licensing Authority will have given proper regard to the local strategies on crime prevention, planning, transport, culture, tourism and economic



development to ensure proper coordination and integration of the aims and actions of these policies.

The Licensing Act is part of a wider Government strategy to tackle crime, disorder and antisocial behaviour and reduce alcohol harm. The Licensing Authority will continue to develop strategies with the police, and the other enforcement agencies, as appropriate, for the management of the night-time economy. Of critical importance to this is the enforcement of the law relating to the sales of alcohol to drunk and underage people and drunkenness or disorder on, or in the immediate vicinity of licensed premises.

This policy covers a wide variety of premises and activities carried on within them. For this reason, this policy cannot detail all the factors that influence the achievement of the licensing objectives nor can this policy detail all the control measures that may be appropriate. However, there will be zero tolerance of dealing in or using controlled drugs (as defined by the Misuse of Drugs Act 1971) on licensed premises.

## **1 CONSULTATION**

- 1.1 The Statement of Licensing Policy will be kept under review and where any significant amendments are considered necessary these will only be made after consultation has taken place in accordance with Section 5 of the Act. Amendments required due to a change in legislation that do not impact on the aims and objectives of the Policy or the promotion of the Licensing Objectives will be made with the approval of the Licensing Manager in order for the policy to remain legislatively current.
- 1.2 Proper weight, in accordance with the Guidance, has been given to the views of all those consulted. Those consulted in the preparation of this Policy included:
  - the Chief Officer of Police for Kent
  - the fire and rescue authority for Kent
  - the Director of Public Health for all areas within Swale Borough
  - persons/bodies representative of local premises licence holders
  - persons/bodies representative of club premises certificate holders
  - persons/bodies representative of local personal licence holders; and
  - persons/bodies representative of businesses and residents in the Swale area
- 1.3 In accordance with the revised guidance issued under section 182 Of the Licensing Act 2003 the following persons have also been consulted on this revised statement:
  - Kent Police Licensing Team
  - the Superintendent of Police for Swale Borough Council area
  - all Council members
  - all parish councils
  - all bordering local authorities
  - all other responsible authorities under the Licensing Act 2003
  - British Beer & Pub Association
  - Shepherd Neame Ltd
  - UK Hospitality

## **2 THE POLICY - BACKGROUND**

2.1 When administering licensing matters the Council as the Licensing Authority will promote the four Licensing Objectives set out in section 4 of Part 2 of the Licensing Act 2003. The four licensing objectives are the:

- Prevention of Crime and Disorder
- Prevention of Public Nuisance
- Public Safety
- Protection of Children from Harm

The Licensing Authority gives equal weight to each of these objectives.

2.2 The 2003 Act requires Licensing Authorities to publish a 'Statement of Licensing Policy' (the Policy) that sets out the approach the Licensing Authority will take when administering applications and other processes under the Licensing Act 2003 to ensure the promotion of the licensing objectives.

2.3 This Statement of Licensing Policy has been prepared in accordance with the provisions of the 2003 Act having regard to the amended guidance issued under section 182 of the Act the Police Reform and Social Responsibility Act 2012 and the Live Music Act 2012.

2.4 Swale Borough Council is the Licensing Authority pursuant to the Licensing Act 2003 (the Act) and is responsible for considering a range of licence applications and variations to licences for a number of activities detailed below. The purpose of licensing is to regulate the carrying on of licensable activities on licensed premises, at qualifying clubs and under temporary event notices, (TENs). The activities as defined by the Act are:

- Sale by retail of alcohol
- Supply of alcohol (club)
- The provision of regulated entertainment which includes:
  - the performance of a play
  - an exhibition of a film
  - an indoor sporting event
  - boxing or wrestling entertainment
  - a performance of live music
  - playing of recorded music
  - performance of dance
  - entertainment of a similar description to the above 3. (where they take place in the presence of an audience for the purpose of entertaining them)
  - Provision of late night refreshment

2.5 It should be noted that following the introduction of the Live Music Act 2012, a licence is not required to stage a performance of live music, or the playing of recorded music if:

- it takes place between 8AM and 11PM; and
- it takes place at an alcohol on-licensed premises; and
- the audience is no more than 500 people

You also don't need a licence:

- to put on unamplified live music at any place between the same hours; or
- to put on amplified live music at a workplace between the same hours and provided the audience is no more than 500 people.

2.6 The types of premises likely to be included within the licensing regime include:

- Pubs and night clubs
- Off licences (includes supermarkets/shops selling alcohol)
- Restaurants serving alcohol
- Restaurants serving hot food and drink after 11pm
- Private members clubs/social clubs
- Hotels/guest houses selling alcohol
- Cinemas/theatres
- Community premises and village halls
- Providers of temporary events involving licensable activities

and any other premises at which licensable activities are to be provided.

2.7 The Policy will apply across a range of applications which include the following:

- a) New Premises Licences and Club Premises Certificates
- b) Variations to Premises Licences and Club Premises Certificates
- c) Provisional Statements for proposed premises yet to be built
- d) Transfer of Premises Licences
- e) Disapplication of mandatory condition in respect of alcohol sales at village halls and community premises
- f) Variations of licences to change the Designated Premises Supervisor
- g) Reviews of Premises Licences and Club Premises Certificates
- h) Personal Licences
- i) Temporary Events Notices

2.8 The Licensing Authority also regulates other activities at licensed premises which include sexual entertainment events and gambling, and these are covered in other policies adopted by the Council.

### **3 LICENSING AUTHORITY GENERAL POLICY CONSIDERATIONS**

- 3.1 The Licensing Authority encourages the development of premises which are not alcohol-led, and which are aimed at different sectors of the population, including all ages and genders. Premises that promote the arts, a food offer, or other cultural activities are particularly encouraged.
- 3.2 Where premises such as pubs are alcohol-based, they are encouraged to consider diversifying their provisions so as to encourage a mixed customer-base and wider attractions, including community uses, soft refreshments, snacks and live entertainment. Diversification is important in the promotion of the licensing objectives as well as ensuring a sustainable economic future for premises and the regeneration of areas requiring investment and employment opportunities.
- 3.3 The Licensing Authority recognises the need to promote and encourage live and recorded music, dancing, theatre and other forms of entertainment for the wider cultural benefit of communities generally but not to cause a nuisance. The necessary protection of local residents and the potential for limited disturbance and anti-social behaviour in neighbourhoods will be carefully balanced with the wider benefits.
- 3.4 The Licensing Authority, Environmental Services, Kent Police and Kent and Medway Fire and Rescue welcome pre-application discussions and will offer advice and guidance upon request and where appropriate. The Licensing Authority expects that applicants will have in advance researched and understood the relevant law in relation to their application and their business plans as well as this Policy. Applicants are encouraged to consult with each of the authorities before applying. It is not for licensing officers to determine the business needs and capabilities of an applicant, but advice can be offered in relation to the licensing objectives. In addition, guidance notes are available on the licensing pages of Council's website – [www.swale.gov.uk](http://www.swale.gov.uk)
- 3.5 Licensing officers will also provide advice to other parties on the licensing process where needed in relation to objecting to or supporting applications that may affect them. However, SBC cannot provide legal advice to applicants or other parties.
- 3.6 Supermarkets and other "off" licensed premises selling alcohol
- 3.6.1 The Licensing Authority will generally consider licensing shops, stores and supermarkets to sell alcohol for consumption off the premises throughout their opening times. However, where there are reasons for restricting or amending hours, for example, where premises become the focus of disorder and disturbance, such restrictions or amendments will be considered where relevant representations have been made.
- 3.6.2 All 'off' licensed premises must comply with the Licensing Act 2003 Mandatory Conditions Order in relation to age related sales. The Licensing Authority also expects such premises to consider any appropriate and proportionate additional measures to prevent and deter proxy sales on behalf of under 18's.
- 3.6.3 Licensees should also carefully consider alcohol sales to customers who have or appear to have alcohol related health issues, and whether those customers already appear under the influence of alcohol when attempting to make purchases.
- 3.6.4 The Licensing Authority expects adequate checks to be made and all reasonable steps taken to ensure alcohol delivered by way of online shopping services is not

delivered to minors to prevent a risk of underage consumption. Therefore, the authority requests as part of an application that the Operating Schedule should include the procedures the applicant is intending to operate to ensure the following:

- The person they are selling alcohol to is over the age of 18
- That alcohol is only delivered to a person over the age of 18
- That a clear document trail of the order process from order, despatch from the licensed premises and delivery to the customer is maintained (with times and signatures) and available for inspection by an authorised officer
- The time that alcohol is sold on the website/over the phone and the time the alcohol is delivered is within the hours stated on the licence for the sale of alcohol

3.6.5 Where self-pay till points are made available in stores selling alcohol, provision must be considered for alcohol sales to be identified and approved prior to completion of the purchase.

### 3.7 Designated Premises Supervisor (DPS) at alcohol licensed premises

3.7.1 Whilst this role has a limited definition under the Licensing Act 2003, it is expected that this person nominated on a licence will normally have overall responsibility for the day to day management and control of the licensed premises and in particular be responsible for the safe receipt, storage and sale of alcohol.

3.7.2 The Licensing Authority would normally expect the DPS to be onsite at the licensed premises for the majority of time when alcohol is being sold subject to working hours legislation and absence for sickness and holidays. The Licensing Authority expects the DPS to provide training to staff in relation to alcohol sales and to authorise the employees the DPS considers competent to sell alcohol on their behalf in writing.

3.7.3 The Licensing Authority expects that a DPS should usually have responsibility for only one licensed premises at a time to ensure good management of the premises and the licensable activities. Where the same person is a nominated DPS on more than one premises licence and representations are made, the Licensing Authority will wish to satisfy itself that the premises in question can properly be managed by that person whilst responsibly promoting the licensing objectives.

### 3.8 Film Exhibitions

3.8.1 The licensing authority expects licence holders or clubs to include in their operating schedules arrangements for restricting children from viewing age restricted films classified according to the recommendations of the British Board of Film Classification or the licensing authority itself.

### 3.9 Live Music

3.9.1 It is acknowledged the implementation of the Live Music Act in 2012 has resulted in a lighter touch regulation of live music up to 11pm on alcohol licensed premises, and this is seen as a positive approach for premises wishing to provide live music but a retrograde step for nearby residents and enforcement services. However, the Licensing Authority does not see this as an opportunity for licensees to provide live music events that cause nuisance and disturbance to local residents or businesses.

3.9.2 The Licensing Authority expects that where unregulated live music is proposed at licensed premises, all due care, attention and consideration is taken to prevent

disturbance. The Council will consider using its powers under the Environmental Protection Act 1990 to prevent and control public nuisance caused by poorly managed live music at licensed premises.

### 3.10 Deregulated Entertainment

3.10.1 Where the further deregulation of schedule 1 of the Licensing Act has reduced the regulatory controls on some regulated entertainment activities, the Licensing Authority will expect licensees to ensure that no nuisance or disturbance is caused to local residents and businesses when providing the deregulated activities. The Licensing Authority will consider using alternative powers as per para 3.9.2

### 3.11 Late Night Levy (LNL)

3.11.1 Whilst it is acknowledged that the provisions for implementing a late night levy arise from the Police Reform and Social Responsibility Act 2011, any levy will potentially have a direct impact on all licensed premises within the Borough. The Licensing Authority has considered the options around the imposition of a LNL and has no plans at the time of drafting this policy to consider an imposition of the levy. Should evidence arise to support implementing a levy the statutory consultation process will be followed and the authority will use its discretion very carefully in relation to design and impact of a levy.

3.11.2 In advance of any decision to implement a LNL, the authority will enter into discussions with the Police with a view to agreeing the allocation of the Police share of the levy to support the policing of the night time economy within this Borough.

### 3.12 Early Morning Alcohol Restriction Order

3.12.1 The Licensing Authority has considered the options around the imposition of an Early Morning Alcohol Restriction Order and has no plans at the time of developing this policy to consider such an Order. Should evidence arise to support implementing an EMARO, the statutory consultation process will be followed, and the matter referred to the Full Council for determination.

### 3.13 Licensing and planning permission

3.13.1 The use of a licensed premises or place may be subject to planning controls. There are several key differences between licensing and planning control, although there is an element of overlap between the departments. Nuisance and crime and disorder are shared concerns of planning and licensing and a combination of planning and licensing powers are required to tackle these problems.

### 3.14 Need for licensed premises and Cumulative Impact

3.14.1 'Need' concerns the commercial demand for particular licensed premises such as a pub, club or hotel. This is a 'market forces' matter and is not of concern to the Licensing Authority. 'Cumulative Impact' means the potential impact on the promotion of the licensing objectives by a significant or excessive number of licensed premises concentrated in one locality. This is a matter for consideration by the Licensing Authority.

3.14.2 The Licensing Authority acknowledges that a concentration of some types of licensed premises in a locality can result in increased footfall, congregation of the public in the streets and potential for increased crime and disorder, litter and anti-social behaviour,

as well as noise nuisance to local residents. This would be a result of the presence of the number of premises and not attributable to individual businesses. The licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from the licensed premises and, therefore, beyond the direct control of the individual, club or business holding the licence, certificate or authorisation

3.14.3 The Licensing Authority, having regard to the evidence available, considers that currently there is no particular part of the Borough where there is a negative cumulative impact of licensed premises on any of the licensing objectives. If residents or a Responsible Authority (in particular the Police) provide relevant evidence through a representation in the future that supports the imposition of a Policy that restricts the number of new and/or later opening premises, this will be considered and consulted on.

3.14.4 The absence of an existing cumulative impact or saturation policy does not, however, prevent any responsible authority or other person making representations on a new application for the grant of a licence on the grounds that the premises will give rise to a negative cumulative impact on one or more of the licensing objectives. The Licensing Authority will also take into account the effect on resources, including police resources, to cope with any influx of visitors to an area, particularly late at night.

#### **4 RESPONSIBLE AUTHORITIES AND OTHER PERSONS**

4.1 Responsible authorities are public bodies that are statutory consultees that must be notified of applications by the applicant. The full list and contact details can be found at Appendix C and are contained on the Swale Borough Council website at Responsible Authorities.

4.2 When dealing with applications and variations for licences and reviews of premises licences, the Licensing Authority is obliged to consider representations from two categories of persons, referred to as 'Responsible Authorities' and 'Interested Parties'. This allows for a broad range of persons to comment both for and against applications for premises licences and club premises certificates and for reviews.

4.3 The Licensing Authority may only consider representations that are relevant to the promotion of the licensing objectives. We only have discretion on whether to grant applications for new premises licences or variations to existing premises licences, on what terms such applications are granted and whether to impose conditions if representations relevant to the licensing objectives are made by "interested parties" or by "responsible authorities" within prescribed time limits and it is appropriate and proportionate to promote the licensing objectives. Otherwise the application will automatically be granted.

4.4 The Licensing Authority will take care to ensure that concerns raised by Responsible Authorities in relation to their own legislative functions are not taken into account if they are not relevant to the application for a premises licence under the Act, or the promotion of the licensing objectives. It would expect those authorities to use their powers and duties within their statutory roles to control such matters. Any representation made by a Responsible Authority that relates to the promotion of the licensing objectives will be accepted.

4.5 The Licensing Authority must give the appropriate weight to representations made by the Police on crime and disorder matters. The Police are the Licensing Authority's

main source of advice on matters relating to the promotion of the crime and disorder licensing objective. The Licensing Authority will accept all reasonable and proportionate representations made by the Police unless the authority has evidence that to do so would not be appropriate for the promotion of the licensing objectives.

- 4.6 Where an 'Other Person or Persons' request to be represented when seeking to make a representation, the Licensing Authority will require written evidence from the person/s being represented that they have authorised a third party to speak or write on their behalf.
- 4.7 The Licensing Authority will examine closely all representations to ensure that they are not frivolous, repetitive or vexatious. Matters that this authority will look at are likely to include:
- whether there is a history of making representations that are not relevant or which have been previously considered vexatious or frivolous and are intended to cause aggravation or annoyance
  - whether the representation raises a 'relevant' issue
  - whether the representation raises issues specifically to do with the premises and/or the licensable activities that are the subject of the application
  - whether the repetitious representation is one made an unreasonably short time after, and identical or substantially similar to:
    - a ground for review specified in an earlier application for review, for the same premises, which has already been determined, or
    - representations considered by the licensing authority when the premises licence was first granted; or
    - representatives which would have been made when the application for the premises licence was first made and which were excluded by the prior issue of a provisional statement.
- 4.8 The above considerations are not exhaustive, and the Licensing Authority will have regard to anything a person making a representation, or persons representing them, say about his or her status to make representations. Nothing in this Statement should be taken to undermine the right of any person to make a representation on an application or to seek a review of a licence where provision to do so exists.
- 4.9 Public Health, Kent County Council, is now included on the list of Responsible Authorities. It is acknowledged that they may be useful in providing evidence of alcohol related crime and disorder or public nuisance etc. that are directly linked to premises or a cluster of premises. It may also be able to provide relevant information on alcohol related admissions that relate to specific licensed premises.
- 4.10 The Licensing Authority as a Responsible Authority
- 4.10.1 The Licensing Authority has carefully considered its role as a Responsible Authority under the Act. It will achieve a separation of responsibilities through procedures and approved delegations within the authority to ensure procedural fairness and eliminate conflicts of interest. A separation is achieved by allocating distinct functions (i.e. those of Licensing Authority and Responsible Authority) to different officers within the licensing team.



- 4.10.2 The Licensing Authority does not expect to act as a Responsible Authority on behalf of third parties but accepts that there may be rare circumstances where this approach may be required.

## **5 EXCHANGE OF INFORMATION**

- 5.1 The Licensing Authority will act in accordance with the provisions of the Licensing Act 2003 the General Data Protection Regulation (GDPR) the Data Protection Act 2018 in its exchange of information. Where a protocol is established to set out the mechanism for exchange of information with other regulatory bodies, any such protocol will be made publicly available.

## **6 HUMAN RIGHTS AND EQUAL OPPORTUNITIES**

- 6.1 The Human Rights Act 1998 makes it unlawful for a local authority to act in a way which is incompatible with the European Convention on Human Rights. In making decisions and determining appropriate action the Licensing Authority will have due regard to the Convention and will interpret the LA2003 in a manner consistent with the Human Rights Act 1998.
- 6.2 The Licensing Authority will consider the effect upon people's human rights and adopt a principle of proportionality and the need to balance the rights of the individual with the rights of the community as a whole. Action taken by the Council which affects another's rights must be no more onerous than is necessary in a democratic society.
- 6.3 The Equality Act 2010 prohibits direct and indirect discrimination on the basis of any of nine protected characteristics, whether in delivering services or in relation to employment. The Licensing Authority will have regard to its obligations under the Equality Act 2010 when interpreting and exercising its powers and responsibilities under the Licensing Act 2003.
- 6.4 Equality Duty supports good decision making – it encourages public bodies to understand how different people will be affected by their activities, so that their policies and services are appropriate and accessible to all and meet people's needs. By understanding the effect of their activities on different people, and how inclusive public services can support and open up people's opportunities, public bodies can be more efficient and effective. The Equality Duty therefore helps public bodies to deliver the Government's overall objectives for public services.
- 6.5 Immigration Act 2016 and Modern Slavery Act 2015.  
The Licensing Authority has responsibilities that relate to the prevention of immigration crime, specifically the prevention of illegal working in licensed premises. Licences must not be issued to people who are illegally present in the UK, who are not permitted to work, or who are permitted to work but are subject to a condition that prohibits them from doing work related to the carrying out of a licensable activity.

These provisions apply to licensed premises for alcohol and late night refreshment, (but not entertainment only premises) and personal licences. Other types of authorisation under the Licensing Act 2003 (Club premises certificates and temporary events notices) (TEN's) are not covered. This is due to there being little evidence of immigration abuse in respect of premises authorised under a club premises certificate and it would have been disproportionate to apply the requirements to a TEN.

## **7 COMPLIANCE AND ENFORCEMENT**

- 7.1 It is essential that licensed premises operate in accordance with the Act and promote the licensing objectives. Part of the Licensing Authority's role is to monitor premises and take appropriate action to ensure that the licensing objectives are promoted.
- 7.2 There are a range of offences detailed under Part 7 of the Licensing Act 2003. The Licensing Authority will liaise with the Responsible Authorities to determine enforcement of specific offences on a case by case basis. Offences related to sales of alcohol to minors will be enforced by the Police or Trading Standards Authority unless they form part of a range of offences identified by the Licensing Authority.
- 7.3 The Licensing Authority will work together with the police in promoting the licensing objectives. The Kent and Medway Enforcement Protocol was approved in February 2008 and agrees the appropriate responsibilities and procedures for joint working and enforcement between the two agencies.
- 7.4 The Council is committed to the principles of good enforcement by carrying out these regulatory functions in a fair, open and consistent manner. Inspections, enforcement, and where appropriate, surveillance under the Act will be based on the principles of risk assessment, which includes the targeting of high risk premises which require greater attention, whilst operating a lighter touch in respect of low risk and well managed premises. The risk-based approach is based on Home Office Guidance, the activities authorised and premises compliance history.
- 7.5 The Licensing Authority needs to be satisfied that premises are being run in accordance with the Act and any licensing conditions, which may be attached to the premises licence. Frequency of inspections will be determined on risk-based criteria.
- 7.6 Annual fees and suspension of licences for non-payment
- 7.6.1 The Licensing Authority is required under section 55A of the Licensing Act to suspend premises licenses where the annual fee has not been paid. The Licensing Authority will invoice each licensee when the annual fee is due setting out the fee that is due and the consequences for non-payment. Where the fee has not been paid or there has been no claim of administrative error by the end of 21 days of the due date, the Licensing Authority will serve the required 2 working day notice to suspend the licence.
- 7.6.2 Where a licence is suspended this means that no licensable activities will be authorised to be provided at the premises until the suspension is lifted on receipt of payment of the overdue fee. Officers will conduct enforcement visits to premises where a licence has been suspended and will take the appropriate action in accordance with the Council's enforcement policy.
- 7.6.3 If an operator does not wish to carry on the activities that require the premises licence or certificate anymore it is important the licence or certificate is surrendered to prevent maintenance fees being accrued.

## CONSIDERATION OF APPLICATIONS

### 8 NEW PREMISES LICENCES

8.1 In making decisions about applications for licences the Licensing Authority will have regard to:

- the Licensing Act 2003
- the Statutory Guidance issued under section 182 of the Licensing Act 2003,
- this Statement of Licensing Policy made under section 5 of the Licensing Act 2003

Any decisions made that depart from guidance or policy only do so for reasons set out in the decision.

8.2 Where elements of applications are unclear or unspecific, particularly in relation to operating schedules and trading hours, the Licensing Authority will expect the applicants to provide additional information for clarity on a request from the licensing team.

8.3 Licensing officers will routinely check that the Public Notices at the premises and the Public Notices in newspapers are displayed in accordance with the regulations as part of the validation process.

8.4 Licensing officers will also notify ward councillors to whose ward the application relates.

8.5 Where there are no representations about an application the licence will be automatically granted after 28 days under the terms and conditions applied for. Licensing officers will interpret the detail of the operating schedule and convert that into consistent enforceable licence conditions.

8.6 Where relevant representations are received the application will be referred to the Licensing Sub-committee for determination at hearing, unless all parties agree that a hearing is not necessary. Where applications result in the need for a hearing the process at section 16 of this policy will apply.

### 9 VARIATIONS TO LICENCES

9.1 From time to time licensees may wish to change the nature of the business vary the trading hours or the licensable activities on offer. These can range from minor changes having little or no impact such as minor changes to the premises plan to more significant changes that will affect the promotion of the licensing objectives. These could include for example, the provision of additional activities, increasing capacities or longer and later trading hours. However, where a variation is so substantial that it significantly changes the nature of the business and layout of the premises it is likely that a new premises licence application will be required rather than a variation.

- 9.2 An application for a variation must be advertised in accordance with regulations and the Council will expect applications to be advertised to residents and businesses in the vicinity.
- 9.3 The relevant parts of this Statement of Policy to be applied to significant variation applications is the same as for new premises licence applications at section 8 above.
- 9.3 Where applications are made for minor variations officers will consider whether there are any impacts on any of the Licensing Objectives. Where the variation proposed creates a significant impact on any of the Licensing Objectives the application will be rejected, and the applicant advised to seek a standard variation.
- 9.4 Where there is minor impact or no impact on the four licensing objectives Officers will consult with the relevant (if any) responsible authorities.
- 10 VARIATIONS TO SPECIFY A NEW DESIGNATED PREMISES SUPERVISOR (DPS)**
- 10.1 The Licensing Authority expects that usually the nominated DPS on a licence will be involved in and supervising the day to day operation of licensed premises that sell alcohol. Where the person nominated as DPS ceases to undertake that role the Licensing Authority would expect the licensee to replace that person as soon as is reasonably practicable to maintain adequate control of the premises.
- 10.2 Where a DPS notifies the Licensing Authority that he or she has resigned, the licensing officers will enter into immediate discussion with the licensee in relation to the mandatory conditions concerning the sale of alcohol, and provide appropriate advice to prevent unauthorised alcohol sales.
- 10.3 All applications to specify a new DPS must be made by the licence holder or by a person/body authorised in writing to act on the licensee's behalf.
- 10.4 Where there are no representations the default position is to grant the variation.
- 10.5 The Licensing Authority will give the appropriate weight to relevant representations received from the Police about a proposed DPS. Applications that receive relevant representations will be referred for a hearing at which point the Sub Committee may approve or reject the application if it considers it appropriate for the promotion of the crime prevention objective to do so.
- 11 TRANSFERS OF PREMISES LICENCES**
- 11.1 Before a licence transfer can be administered, the Licensing Authority usually expects consent to have been obtained from the previous premises licence holder. If this is not possible the applicant will be expected to demonstrate that he or she has taken all reasonable steps to secure consent to transfer the licence.
- 11.2 It is acknowledged that in some cases licensees leave premises and do not provide any forwarding contact details, or there has been a death or incapacity of the licence holder. In such cases where a licensee cannot reasonably be contacted to give approval, a licence will be transferred in accordance with the requirements of the Act.
- 11.3 Where a relevant Police objection to the transfer is received the application will be determined through the hearings process unless it is agreed by the applicant and Police as unnecessary.

## **12 PROVISIONAL STATEMENTS FOR PREMISES**

- 12.1 A provisional statement is an application made by someone with an interest in premises, which is or is about to be constructed for use for one of the licensable activities or which is or is about to be extended or altered for that purpose or may be applied for, by a person interested in a premises. This option allows potential applicants to obtain advance notice whether a premises licence is likely to be granted on completion of its construction or conversion.
- 12.2 The process for considering an application for a provisional statement is the same as that for a premises licence application, including a schedule of works. The applicant is obliged to give notice of the application in the same way as applying for a premises licence. Responsible authorities and other parties may make representations and there are rights of appeal.
- 12.3 The holder of a provisional statement may apply for a premises licence once the premises are constructed, altered or acquired. The Licensing Authority will be constrained in the matters it can consider when determining the premises licence application, and in terms of representations about premises licence applications that follow the grant of a provisional statement, where the application is for a licence in the same form as the provisional statement and the work described in the schedule of works has been satisfactorily completed.
- 12.4 Representations are excluded where the relevant person could have made the same or substantially the same representations about the provisional statement application but failed to do so without reasonable excuse and there has been no material change in circumstances of the premises or area in the vicinity of the premises since the provisional statement.

## **13 CLUB PREMISES CERTIFICATES**

- 13.1 The Licensing Authority acknowledges the importance and history of members clubs and the privileged position held by clubs historically in relation to alcohol licensing.
- 13.2 Members clubs are able to obtain a club premises certificate to authorise licensable activities for their members and their guests. There is no requirement for any members to hold a personal licence under the Licensing Act 2003, and there is no requirement to specify a designated premises supervisor. It is acknowledged that alcohol is supplied by and for the members through their membership of the club.
- 13.3 In order to apply for a club premises certificate the Licensing Authority must be satisfied that the club is a qualifying club and satisfies the legal conditions set out in the Act. Applicants for a club premises certificate will be required to complete a club declaration form setting out how the club will meet the conditions and definitions stated in the Act. Licensing officers will have delegated authority to make additional enquiries where appropriate in order to satisfy that a proposed club meets the criteria laid out in the Act.
- 13.4 The fundamental principles for premises licence applications set out at section 15 of this Policy will apply to applications for club premises certificates subject to

exemptions in respect of the DPS and the requirement for evidence of the club's status.

- 13.5 Any qualifying club wishing to offer licensable activities at events to which non-members will attend will be required to authorise such activities by way of a Temporary Event Notice or by ensuring compliance with the club rules to allow the public to enjoy the clubs facilities and activities without jeopardising the validity of the club premises certificate.
- 13.6 The Licensing Authority expects 'public' events on club premises to be authorised by a Temporary Event Notice. It is expected that club committee members will seek advice from the Licensing Authority prior to providing such activities for non-members to prevent any unauthorised activities.
- 13.7 Where the Licensing Authority identifies that a club no longer meets the conditions set out in section 62 of the Licensing Act 2003 or where the Licensing Authority obtains evidence to demonstrate that a club no longer acts in good faith as a qualifying club, it will give the club a notice withdrawing the club premises certificate.
- 13.8 Suspension of Club Premises Certificates may also occur under section 92A of the LA2003, through failure to pay annual fee. Once granted an annual must be paid each year. Failure to pay the fee with the specified time will result in the Council suspending the licence until such time as the fee is received.

#### **14 REVIEW OF A PREMISES LICENCE OR CLUB PREMISES CERTIFICATE**

- 14.1 The Licensing Authority acknowledges that at any stage following the grant of a premises licence matters can arise at premises that raise concern as to the continued promotion of the licensing objectives at licensed premises.
- 14.2 The Act allows a licence to be reviewed where such matters arise. It is expected that most reviews will be applied for by Responsible Authorities.
- 14.3 Although this Licensing Authority is also a Responsible Authority and may bring about a review application, it is not expected that it will act as a Responsible Authority on behalf of other parties (for example, local residents, local councillors or community groups).
- 14.4 The Licensing Authority will determine whether a review application is relevant and the validity of a review application will be determined by a licensing officer. This will be on the basis of whether the request for the review is:
  - relevant to one or more of the licensing objectives and
  - not frivolous, vexatious or repetitious.
- 14.5 In every review case an evidential basis for the allegations made will need to be submitted to the Council as the Licensing Authority.
- 14.6 The Licensing Authority would expect grounds for a review to be evidence based but will consider each application on its merits.
- 14.7 Where a review application is accepted the Licensing Authority will encourage the parties to enter into mediation during the consultation period to help resolve or

narrow issues arising. The Council would be happy to assist in these meetings as appropriate.

- 14.8 All reviews, save where agreed by all parties as unnecessary, will lead to a hearing before a sub-committee. This may be a full hearing or a condensed hearing to consider the outcome of mediation. However other parties who have made representation but not been involved in mediation will be permitted to voice their representations at the hearing in accordance with the Hearings Regulations. The Policy applied to hearings can be found in section 16.

- 14.9 The authority considers that where reviews are raised as a result of serious crime and disorder causing that licensing objective to be undermined, then it is likely that that a revocation of the licence will be considered.

**15 APPLICATION TO VARY A PREMISES LICENCE AT COMMUNITY PREMISES TO REMOVE THE MANDATORY REQUIREMENT FOR A DPS**

- 15.1 The Licensing Authority acknowledges the value that local community premises bring to their localities and that most are operated and managed by volunteers. The mandatory requirement for a nominated DPS to be in place at alcohol licensed community premises can be burdensome and difficult for an individual to manage at such premises.

- 15.2 The Act allows management committees at community premises to take over the responsibility of the alcohol sales by applying to the Licensing Authority to remove the requirement to have a nominated DPS at the premises to authorise sales of alcohol. The Licensing Authority will, subject to strong evidence that a community premises is well managed by an experienced committee, support applications to remove the mandatory condition requiring all alcohol sales to be authorised by a personal licence holder.

- 15.3 Before considering an application the Licensing Authority will satisfy itself that a premises meets the definition of a community premises. Enquiries will be made as to Where there is a regular 'commercial' or 'non-community based' use or a membership requirement to use the premises it is unlikely that such a premises would meet the definition of a community premises and permission to remove the requirement for a DPS is likely to be refused.

- 15.4 In general it is expected that premises that form part of a church hall or chapel hall or are a village, parish or community hall or other similar building would in most cases meet the definition of a community premises, although each will be considered on its individual merits and the evidence provided or obtained.

- 15.5 The licensing officers will consider, on a case by case basis, all applications to remove the mandatory condition and will ask such questions or seek the necessary evidence to confirm the suitability of the management committee to collectively authorise the supply of alcohol the premises.

- 15.6 Committees that make an application will be expected to have members who are aware of the law relating to the sale of alcohol, contain steps within their operating schedule to prevent offences relating to alcohol sales and also to include appropriate rules in hiring agreements where the premises is hired out to the public for events that will involve the sale of alcohol.

## **16 HEARINGS**

- 16.1 Any application that has resulted in the submission of relevant representation from any party will be referred to the Licensing Sub-Committee for a hearing and determination in accordance with the Licensing Act 2003 and the Licensing Act 2003 (Hearings) Regulations 2005.
- 16.2 A sub-committee will consist of three suitably trained members of the Licensing Committee. The sub-committee will be advised on the law by a member of the Council's Legal Services Team. Where appropriate that legal team member will not be involved in the application process to prevent a conflict of interest by ensuring a clear separation of roles.
- 16.3 This Statement of Policy will play a key role in achieving consistency in decision making.
- 16.4 Where representations are made only by Responsible Authorities, the Licensing Authority would expect applicants and Responsible Authorities to enter into negotiation or mediation prior to a hearing in an attempt to resolve or narrow issues before attending the licensing hearing and to achieve an outcome satisfactory to all parties.
- 16.5 Parties will be advised of the hearing date and procedure in advance and in accordance with the statutory process. At all hearings the sub-committee will have regard to the Guidance issued under section 182 of the Act. This authority may use its discretion where there are strong and defensible reasons for departing from the Guidance and where it considers it right to do so. In any such case this authority will clearly express and explain its reasons for doing so.
- 16.6 The Licensing Authority must give the appropriate amount of weight to representations made by the Police on crime and disorder matters. It will give appropriate weight to all representations made by all parties based on the content and relevance to the promotion of all licensing objectives.
- 16.7 All decision notices will be in writing and will include clearly stated reasons to explain a decision on an application.

## **17 LICENCE CONDITIONS**

- 17.1 A key concept in the Licensing Act is that conditions that are attached to licences or certificates are tailored to suit the individual style and characteristics of the premises and its activities and the impact of those activities. Those conditions must be appropriate and proportionate in order to promote the licensing objectives at that premises.
- 17.2 All licences that authorise the sale of alcohol will be subject to the mandatory conditions set out in the Act and Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010 as amended (and any subsequent Mandatory Conditions that are introduced).
- 17.3 Applicants will be expected to include appropriate steps to promote the licensing objectives within their operating schedule which will be converted to conditions on a premises licence or club premises certificate. Those steps will be expected to be proportionate, achievable, enforceable and relevant to the business in question and will ensure the promotion of each of the four licensing objectives.



- 17.4 Where applications receive valid representations and are subject to a hearing, the sub-committee will consider the evidence provided within representations, the detail of the application, the nature of the premises and business and only where appropriate and proportionate will attach conditions to a licence to secure the promotion of the licensing objectives in light of the evidence provided.
- 17.5 Decisions on individual licence conditions will be made on a case by case basis, and where there are concerns over the effective promotion of the licensing objectives, the applicant will be given the opportunity to offer suggestions on how the objectives can be met. This authority will work closely with all parties and the applicant in establishing workable, enforceable and reasonable conditions for new and variation applications.
- 17.6 In all cases the Licensing Authority will have regard to the Guidance when considering the implementation of licence conditions.
- 17.7 In all cases conditions will aim to promote the licensing objectives, be unambiguous and enforceable, appropriate to the activities and the business, achievable and applicable to the premises and the areas around the premises which is within the licensee's control.
- 17.8 The Licensing Authority recognises the need to avoid, so far as possible, duplication with other regulatory systems including Health and Safety at Work, Fire Safety, Food Hygiene and Nuisance Control. However, these regulations may not cover the unique circumstances of some activities and entertainment. In these circumstances, the council may therefore, where necessary, attach conditions to premises licenses for the promotion of the licensing objectives.

**Conditions to promote the Prevention of Crime and Disorder.**

- 17.9 Under the Act the Licensing Authority has a duty to promote the licensing objectives, and, a further duty under the Crime and Disorder Act 1998 to do all it reasonably can to prevent crime and disorder in the borough.
- 17.10 Wholesale of alcohol. Since 1 April 2017, businesses which sell alcohol (for example, retailers of alcohol and trade buyers) need to ensure that the UK wholesales they buy from have been approved by HMRC under the Alcohol Wholesaler Registration Scheme (AWRS). They will need to check their wholesalers Unique registration Number (URN) against the HMRC online database. This is an ongoing obligation and if a business is found to have bought alcohol from an unapproved wholesaler, they may be liable to a penalty or could even face a criminal prosecution and their alcohol stock seized. Any trader who buys alcohol from a wholesaler for onward sale to the general public (known as a 'trade buyer') does not need to register unless they sell alcohol to other businesses.
- 17.11 Examples of trade buyers would be pubs, clubs, restaurants, cafes, retailers and hotels. However, they will need to check that the wholesaler they purchase alcohol from is registered with HMRC.
- 17.12 The applicant will be expected to detail in their operating schedule how they will prevent crime and disorder on and close to the premises. Such detail should reflect the licensable activities on offer, location and character of the area, the nature of the premises use and the range of customers likely to use the premises.

These may include, but are not limited to, the following:

- prevention of disorderly conduct and anti-social behaviour
- prevention of underage drinking
- prevention of sales of alcohol to intoxicated customers
- prevention of drunkenness both on and in the vicinity of the premises
- prevention of drug use and drug dealing
- restriction to responsible drinks promotions
- use of safety glass
- inclusion of a wind-down time following alcohol sales period
- adequate seating to discourage “vertical drinking”
- the offer of food and snacks or other entertainment or occupation to discourage persistent drinking

- 17.13 In busier premises the Licensing Authority would usually expect to see a short (e.g.30 mins) ‘wind down’ or ‘drinking up’ period allowed for after the cessation time of entertainment and alcohol sales as this is effective in assisting in a reduction in noise and exuberance of customers before leaving the premises.
- 17.14 Applicants will be expected to seek advice from the Police and the Licensing Authority will give appropriate weight to requests by the Police for premises to be protected by SIA registered door staff subject to the provision of relevant evidence. Where the Licensing Authority determines after consultation with the Police that a premises is one that warrants additional security and monitoring it would expect applicants to include the provision of SIA approved door staff at the premises at appropriate times. Relevant premises are usually those used mainly for drinking alcohol and have later opening hours.
- 17.15 Where appropriate, applicants for licences in the town centre areas providing mainly alcohol, music and dancing would be expected to consider inclusion of a provision of safety glasses to prevent a risk of injury on the rare occasion that a glass may be used as a weapon.
- 17.16 The use of CCTV should be considered where appropriate or on the advice and recommendations of the Police and to a quality and standard approved by the Police for evidential purposes. Licensees will be expected to fully comply with the requirements of the Information Commissioners Office and the Data Protection Act 1998 in respect of any surveillance equipment installed at a premises.
- 17.17 In any application resulting in hearing the sub-committee will consider each application on its individual merits and determine the imposition of conditions that are appropriate to the promotion of the licensing objectives.

### **Conditions to promote Public Safety**

- 17.18 The applicant will be expected to show how the physical safety of persons attending the premises will be protected and to offer any appropriate steps in the operating schedule to promote this.
- 17.19 Such steps will not replace the statutory obligation on the applicant to comply with all relevant legislation under the Health and Safety at Work etc. Act 1973 or under the Regulatory Reform (Fire Safety) Order 2004.

- 17.20 Applicants will be expected to have carried out the necessary risk assessments to ensure safe occupancy levels for the premises. Where a representation from the Fire Authority suggests that for the promotion of the Public Safety objective a maximum occupancy should be applied, the Licensing Authority will consider adding such a limit as a licence condition.
- 17.21 Where appropriate an operating schedule should specify occupancy limits for the following types of licensed premises:
- a) High Volume Vertical Drinking e.g. premises that provide mainly stand up drinking facilities with limited seating/table space and the primary activity is the sale of alcohol
  - b) Nightclubs
  - c) Cinemas
  - d) Theatres
  - e) Other premises where regulated entertainment is likely to attract a large number of people.
  - f) Where conditions of occupancy have arisen due to representations received.

### **Conditions to promote the Prevention of Public Nuisance**

- 17.22 The applicant will be expected to detail any appropriate and proportionate steps to prevent nuisance and disturbance arising from the licensable activities at the premises and from the customers using the premises.
- 17.23 The applicant will be expected to demonstrate that they have considered the following and included steps to prevent public nuisance:
- a) Proximity of local residents to the premises
  - b) Licensable activities proposed and customer base
  - c) Hours and nature of operation
  - d) Risk and Prevention of noise leakage from the premises from equipment, customers and machinery
  - e) Prevention of noise from customers leaving the premises and customer pick up points outside premises and from the Car Park.
  - f) Availability of public transport to and from the premises
  - g) Delivery and collection times and locations.
  - h) Impact of external security or general lighting on residents.
  - i) History of management of and complaints about the premises.
  - j) Applicant's previous success in preventing Public Nuisance.
  - k) Outcomes of discussions with the relevant Responsible Authorities.
  - l) Impact of location, noise and contamination from outside smoking areas on neighbours and other customers
  - m) Collection of litter arising from the premises
- 17.24 Steps to prevent public nuisance may include a range of options including noise limiting devices, sound insulation, wind down periods, acoustic lobbies, management of smoking areas etc.
- 17.25 Steps will differ depending on the individual premises and activities and it is for the applicant to ensure that reasonable, effective and appropriate steps are included within the operating schedule.

### **Conditions to promote The Protection of Children from Harm**

- 17.26 Applicants will be expected to detail any appropriate and proportionate steps to protect children at the premises from any harm. The Licensing Authority recognises the right of licensees (serving alcohol) to allow accompanied children into their premises. The Licensing Authority would not seek to restrict access by children (above that specified in the Act) unless it is necessary for the prevention of physical, moral or psychological harm.
- 17.27 Steps to protect children from harm must be carefully considered for inclusion where:
- a) There is entertainment or services of an adult nature provided.
  - b) There have been previous convictions for under age sales of alcohol.
  - c) There has been a known association with drug taking or dealing.
  - d) There is a significant element of gambling on the premises.
  - e) There is a presumption that children under 18 should not be permitted entry
  - f) such as to nightclubs (apart from when specific events are held for under 18's).
  - g) Outcomes of discussions with relevant Responsible Authorities suggest such steps are applicable.
- 17.28 Nothing in the Licensing Act prevents licensees from excluding children from a licensed premises and no condition can be added to require the admission of children.
- 17.29 Where there are no matters that give rise to concern in respect of children at premises the Licensing Authority would expect to see the relevant box on an application form completed to specify NONE.

### **18 PERSONAL LICENCES**

- 18.1 Any person who wishes to act as a DPS at licensed premises must be in possession of a personal licence issued under the Licensing Act 2003. Any other person may also apply for a personal licence subject to meeting the necessary criteria. The Licensing Authority acknowledges the default grant position for applicants who meet the statutory criteria under the Licensing Act 2003.
- 18.2 The Police will only be consulted where the applicant declares a previous conviction for a relevant offence. A relevant conviction is one that is listed in Schedule 4 of the Licensing Act 2003.
- 18.3 Where a representation is received from the Police the Licensing Authority must hold a hearing unless the Police and the authority agree that it is unnecessary. The application must be rejected if it is considered appropriate for the promotion of the crime prevention objective and granted in any other case.
- 18.4 The Police must give a notice of objection to the Licensing Authority within the statutory 14-day consultation period. The Licensing Authority accepts that there is no discretion to accept a late notification from the Police even if the objection provided evidence that to grant the licence would undermine the crime prevention objective.
- 18.5 The Licensing Authority requires all personal licence holders to advise if there is a change of their name or address in accordance with the Act. All licence holders are advised of this requirement when a licence is granted. Any changes will be updated

and an amended licence will be issued within 20 working days of a notification of change.

- 18.6 The Licensing Authority anticipates that the Magistrates and Crown Courts will take appropriate action in relation to a personal licence where licence holders are convicted of relevant offences in those courts after the grant of a personal licence and notify the Licensing Authority of any action taken in respect of a personal licence.
- 18.7 The Licensing Authority requires personal licence holders to undertake their duty to disclose any convictions for a relevant offence after a personal licence has been granted. The Licensing Authority and/or the Police will take appropriate formal action against the licence holder where subsequent relevant convictions are not declared under that duty.

## **19 TEMPORARY EVENT NOTICES**

- 19.1 The Licensing Act 2003 makes provision for the authorisation of a person (known as a premises user) to provide licensable activities on a temporary basis at unlicensed premises, or to add activities and/or extend the hours of existing activities at a licensed premises. The activities are authorised by the serving of a Temporary Event Notice (TEN) on the Licensing Authority, subject to the notice meeting the proper criteria as detailed under the Act.
- 19.2 Comprehensive planning of events is essential and where there are likely to be impacts on neighbouring residents or businesses as a result of the activities to be authorised by a TEN, the Licensing Authority expects the premises user to have considered any potential impacts and how they may be mitigated.
- 19.3 The Licensing Authority welcomes requests for advice from applicants who wish to provide temporary events to ensure they understand the law relating to such events and to reduce the likelihood of objections being made.
- 19.4 There are two types of TEN, Standard or Late. Both are subject to a numerical limit on the number of each type of TEN that can be served by personal licence holders and non-personal licence holders in a calendar year. There is also a numerical limitation on the number of TENs that may be served in respect of individual premises or place.
- 19.5 Standard TEN. A standard TEN must be served at least 10 working days (Monday to Friday excluding Bank Holidays) before the event commences. The 10 working days excludes the day of service and the day on which the event starts. Copies of the TEN must be served on the Licensing Authority, The Environmental Health (EH) Department, and the Police. The fee is payable only to the Licensing Authority. Applicants are encouraged to serve TENs at least 28 days before the proposed events to allow greater time for an event to be planned.
- 19.6 Where numerical limits are exceeded the Licensing Authority will serve a counter notice and the proposed licensable activities will not be authorised.
- 19.7 Where objections are received from the Police and/or EH and not withdrawn, the notice will be referred for a hearing before the Licensing Sub-Committee. The Sub-Committee may approve the TEN as applied for, add appropriate conditions (if the TEN takes place on a premises with an existing premises licence) or reject a TEN by serving a counter notice.

- 19.8 Late TEN. A late TEN may be served between 9 and 5 working days before a proposed event commences. The same limitations apply to the day the notice was served and the day of the event. Where numerical limits are exceeded a counter notice will be served and the proposed licensable activities will not be authorised.
- 19.9 If the late TEN is served with fewer than 5 working days' notice it is deemed invalid and would be rejected. The proposed activities would not be authorised. The Licensing Authority has no discretion to accept TENs outside the permitted statutory deadlines.
- 19.10 Where valid representations are received from the Police or Environmental Health in respect of a late TEN, the TEN will be rejected and proposed activities will be unauthorised. A refund of the fee will not be made.
- 19.11 The Licensing Authority will take the appropriate action where there is evidence that licensable activities have been provided without the authorisation of a TEN.
- 19.12 It should be noted that if a TEN has been processed and is no longer required the fee will not be refunded as the Licensing Authority has already carried out its obligations.

## **20 OTHER RELEVANT MATTERS**

### **Adult entertainment**

- 20.1 The Licensing Authority has adopted Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 and premises offering regular entertainment of a sexual nature must be licensed as a sex establishment under those provisions.
- 20.2 The Licensing Authority acknowledges that exemptions under the above legislation do allow sexual entertainment to be provided at premises licensed under the Licensing Act 2003, as long as it is provided on no more than 11 occasions within 12 months and with at least 1 month between each occasion. Those infrequent events will be regulated by the licence granted under the Licensing Act 2003 where that licence authorises performances of dance and where the original application specified that such adult entertainment was proposed to be provided.

### **Gaming machines in licensed premises - Automatic entitlement**

- 20.3 There is provision in the Gambling Act 2005 (GA2005) for premises licensed to sell alcohol for consumption on the premises to automatically have two gaming machines of category C and/or D. The premises licence holder merely needs to notify this Licensing Authority and pay the prescribed fee.
- 20.4 This authority can remove the automatic authorisation in respect of any premises if:
- provision of the machines is not reasonably consistent with the pursuit of the licensing objectives (under the GA2005);
  - gaming has taken place on the premises that breaches a condition of section 282 of the GA2005 (for example, the gaming machines have been made available in a way that does not comply with requirements on the location and operation of gaming machines);
  - the premises are mainly used for gaming; or
  - an offence under the GA2005 has been committed on the premises.

### **Gaming Machine Permit**

- 20.5 If a premises wishes to have more than two machines of categories C and/or D, then it needs to apply for a permit and this authority will consider that application based upon the licensing objectives, any guidance issued by the Gambling Commission under section 25 of the Act, and such matters as officers consider relevant.
- 20.6 In determining such matters, consideration will be given to all the objectives but particularly the need to protect children from harm and to the need to protect vulnerable persons from harm or being exploited by gambling. The applicant will be required to satisfy the authority that there will be sufficient measures to ensure that minors do not have access to the adult only gaming machines.
- 20.7 Measures to satisfy the authority relate to restricting access to age restricted machines and adult machines being in sight of the bar, or in sight of staff who will monitor that the machines are not being used by minors. Notices and signage should also be displayed to this effect. Applicants may consider the provision of information leaflets and helpline numbers for organisations such as GamCare to demonstrate their responsibility in the protection of vulnerable persons and compliance with Codes of Practice issued by the Gambling Commission.

### **Gambling in alcohol 'On' licensed premises**

- 20.8 Exempt gaming is equal chance gaming that is generally permissible in any club or alcohol licensed premises. Equal chance gaming includes games such as backgammon, mah-jong, rummy, kalooki, dominoes, cribbage, bingo and poker. Such gaming should be ancillary to the purposes of the premises.
- 20.9 This exemption is automatically available to all clubs or alcohol licensed premises but is subject to statutory stakes and prize limits determined by the Secretary of State. Licensees are encouraged to seek advice from the Gambling Commission at [www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk) or this Licensing Authority before providing any forms of gambling at alcohol licensed premises. Such arrangements should also be compliant with current smoke-free legislation.

### **Smoking outside premises**

- 20.10 Licensees should consider appropriate arrangements for customers who wish to smoke outside the premises in an effort to ensure that any unlicensed pavement area are not also used as an allocated smoking area. This is to prevent nuisance and potential health harms to any non-smokers who may use the area.

## **21 INFORMATION**

- 21.1 In order to ensure that applicants and persons who make representations have the necessary information to be able to do so, information is available on the Swale Borough Council website [www.swale.gov.uk](http://www.swale.gov.uk) or by contacting the licensing team by email: [licensing@swale.gov.uk](mailto:licensing@swale.gov.uk) or by telephone on 01795 417286

## APPENDIX A

Swale is a local government district with borough status in Kent, England and is bounded by Medway to the west, Canterbury to the east, Ashford to the south and Maidstone to the south west.

Swale is the bridging point between north and east Kent, named after the narrow channel of tidal water between mainland Kent and the Isle of Sheppey. It is a Borough of some 140,800 people who primarily live in its three main towns, Sittingbourne, Faversham and Sheerness

Swale has strong communication links. It is close both to London and mainland Europe and well connected to the national motorway network. The M2 runs east-west across the Borough, providing access to destinations between the Channel Ports and London. Via the A249 there is alternative access along the M20. London is accessible in a little over an hour by high speed rail services. As a coastal Borough, the Port of Sheerness gives access, via its deep water berths, to the largest ships in the world; its imports distributed to all corners of the UK. Swale is also within easy reach of other major Kent centres - Canterbury, Ashford, Maidstone and the Medway Towns.

Sittingbourne (population 54,400) is the main town, acting as a population, employment and service centre for the Borough. These functions and the town's present day character have their roots in past travellers and pilgrims and the industries that settled there. It is a product of its location on the London-Dover road and at the head of an inlet of the Swale, Milton Creek.

A unique feature within Kent is the Isle of Sheppey, separated from the mainland by the Swale. Its main town is Sheerness (population 13,250). It owes much of its distinctiveness to its role as a traditional seaside town and the past and present industries that established there, particularly the former naval dockyard and the current Port facility. The town centre functions as the main shopping and service centre for the Island's residents and visitors.

Faversham (population 21,000) is an attractive and historic small market town at the centre of a rich farming hinterland. Faversham and Oare are located at the head of two creeks and surrounded by attractive countryside. The town is best known for its continued links with brewing and food. This and the town's industrial and maritime heritage produce its present day character - an outstanding range of historic buildings, streets and waterways and a town centre with a strong independent retail and service sector.

Outside the towns, from Hartlip in the west to Dunkirk in the east, Sheldwich in the south to Shellness in the north, are the Borough's extensive rural areas. There is a great diversity of settlements and landscapes, many of great charm and character. Larger villages along the main transport routes like Newington, Teynham and Boughton have a range of local facilities and services. Away from the main routes are smaller, more isolated settlements and hamlets like Conyer, Warden and Throwley Forstal.



## Appendix B

Contact details of Local Authority Licensing Department as at

Licensing Department,  
Swale Borough Council  
East Street  
Sittingbourne  
Kent  
ME10 3HT

Phone: 01795 417286

Email: [licensing@swale.gov.uk](mailto:licensing@swale.gov.uk)

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**Appendix C**

<b>A copy of the application and plan will need to be submitted to each of the following Authorities</b>	
Licensing Department, Swale Borough Council, Swale House, East Street, Sittingbourne, Kent, ME10 3HT <a href="mailto:licensing@swale.gov.uk">licensing@swale.gov.uk</a>	Planning Department, Swale Borough Council, Swale House, East Street, Sittingbourne, Kent, ME10 3HT PlanningApplications@Swale.gov.uk
Environmental Health, Swale Borough Council, Swale House, East Street, Sittingbourne, Kent, ME10 3HT EHAdmin@MidKent.gov.uk	Licensing Co-ordinator, North Division, Medway Police Station, Purser Way, Gillingham, Kent ME7 1NE licensing.north.division@kent.police.uk
Maidstone Group Fire Safety Office, Maidstone Fire Station, Loose Road, Maidstone, ME15 9QB <a href="mailto:BuildingSafety.Canterbury@kent.fire-uk.org">BuildingSafety.Canterbury@kent.fire-uk.org</a>	Child Protection Agency, Brenchley House, County Hall, Maidstone, Kent, ME14 1RF
Kent County Council, Trading Standards, 1st Floor, Invicta House, County Hall, Maidstone, ME14 1XX trading.standards@kent.gov.uk	Public Health, Kent County Council, Room 3.45, Sessions House, County Road, Maidstone Kent ME14 1XQ phbusinesssupport@kent.gov.uk

## Appendix D

### References to guides of best practice

Revised guidance issued under section 182 of Licensing Act 2003

[www.gov.uk/government/publications/explanatory-memorandum-revised-guidanceissued-under-s-182-of-licensing-act-2003](http://www.gov.uk/government/publications/explanatory-memorandum-revised-guidanceissued-under-s-182-of-licensing-act-2003)

Good Practice Guide on the Control of Noise from Pubs and Clubs, produced by Institute of Acoustics

[www.ioa.org.uk](http://www.ioa.org.uk)

Good Practice Guide: Licensing published jointly by the Justices' Clerks' Society and the Magistrates' Association (April 1999)

[www.magistrates-association.org.uk](http://www.magistrates-association.org.uk)

Code Of Practice And Guidance Notes On Noise Control For Concerts And Outdoor Events

[www.cieh.org/policy/noise\\_council\\_environmental\\_noise.html](http://www.cieh.org/policy/noise_council_environmental_noise.html)

Swale Borough Council Event Planning

[www.swale.gov.uk/guide-for-event-organisers/](http://www.swale.gov.uk/guide-for-event-organisers/)

The National Alcohol Harm Reduction Strategy Toolkit

[www.alcoholconcern.org.uk](http://www.alcoholconcern.org.uk)

The Point of Sale Promotions published by BBPA

[www.beerandpub.com](http://www.beerandpub.com)

Public Places Charter

[www.ash.org.uk](http://www.ash.org.uk)

National Pubwatch

[www.nationalpubwatch.org.uk](http://www.nationalpubwatch.org.uk)

**Appendix E****Contact details and useful addresses (e.g. Chamber of Trade, BBPA, BII, SIA etc.)**

SIA PO Box 74957 London E14 1UG Website: <a href="http://www.the-sia.org.uk">www.the-sia.org.uk</a> Tel: 0300 123 9298 <a href="#">Contact Us Form</a>	Disclosure and Barring Service (DBS) Customer services PO Box 165 Liverpool L69 3JD Information line: 0300 0200 190 Website: <a href="http://DBS Update Service - GOV.UK">DBS Update Service - GOV.UK</a>
British Beer & Pub Association 61 Queen Street London EC4R 1EB Tel: 020 7627 9173 <a href="mailto:contact@beerandpub.com">contact@beerandpub.com</a> Press Office: 020 7627 9199	British Institute of Inn keeping (BII)  Sentinel House, Ancells Business Park, Harvest Crescent, Fleet, GU51 2UZ Tel: 01276 684 449 <a href="http://www.bii.org">www.bii.org</a> Email: <a href="mailto:reception@bii.org">reception@bii.org</a>

**Appendix F - Recommended delegation of functions as per S182 of the guidance**

<b>Matter to be dealt with</b>	<b>Full Committee</b>	<b>Sub Committee</b>	<b>Officers</b>
Application for personal licence		If a police objection	If no objection made
Application for a personal licence with unspent convictions		All cases	
Application for premises licence/club premises certificate		If a relevant representation made	If no relevant representation made
Application for provisional statement		If a relevant representation made	If no relevant representation made
Application to vary designated premises supervisor		If a police objection	If no objection made
Request to be removed as a designated premises supervisor			All cases
Application for transfer of premises licence		If a police objection	If no objection made
Application for interim authorities		If a police objection	If no objection made
Application to review premises licence/club premises certificate		All cases	
Decision on whether a complaint is irrelevant, frivolous, vexatious etc.			All cases
Decision to object when Local Authority is a consultee and not the relevant authority considering the application		All cases	
Determination of an objection to a temporary event notice		All cases	
Determination of application to vary premises licence at community premises to include alternative licence condition		If a police objection	All other cases
Decision whether to consult other responsible authorities on minor variation application			All cases
Determination of a minor variation			All cases

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Reference	CHANGES TO STATEMENT OF LICENSING POLICY	New wording	Officers' comments
<b>Introduction</b>  <b>Page 6 - 1.3 Consultation</b>  <b>Covid-19 – Page 6</b>	<p>In accordance with the guidance...</p> <p>UK Hospitality added to the list of consultees.</p> <p>Removed</p>	<p>In accordance with the revised guidance issued under section 182 Of the Licensing Act 2003....</p>	<p>Amended to detail which guidance.</p> <p>No longer relevant</p>
<b>4. Responsible Authorities</b>  <b>4.3</b>	<p>The Licensing Authority may only consider representations that are relevant to the promotion of the licensing objectives. We only have discretion on whether to grant applications for new premises licences or variations to existing premises licences, to impose conditions on granting licences if representations relevant to the licensing objectives are made by “interested parties” or by “responsible authorities” within prescribed time limits, Otherwise the application will automatically be granted.</p>	<p>The Licensing Authority may only consider representations that are relevant to the promotion of the licensing objectives. We only have discretion on whether to grant applications for new premises licences or variations to existing premises licences, on what terms such applications are granted and whether to impose conditions if representations relevant to the licensing objectives are made by “interested parties” or by “responsible authorities” within prescribed time limits and it is appropriate and proportionate to promote the licensing objectives. Otherwise the application will automatically be granted.</p>	<p>Amended for clarity</p>

<p><b>4.10 The Licensing Authority as a Responsible Authority</b></p> <p><b>4.10.2</b></p>	<p>The Licensing Authority does not expect to act as a Responsible Authority on behalf of third parties but accepts that there may be rare circumstances where this approach may be required. An example may be where matters arise at premises of which the licensing authority is aware of the negative impact on the promotion of the licensing objectives and residents, and other third parties have failed to take action by either requesting a review or making representation.</p>	<p>The Licensing Authority does not expect to act as a Responsible Authority on behalf of third parties but accepts that there may be rare circumstances where this approach may be required.</p>	<p>Amended to manage expectations.</p>
<p><b>14.4</b></p>	<p>Such parties can make relevant representations to the Licensing Authority in their own right, and it is reasonable for the Licensing Authority to expect them to make representations themselves where they are reasonably able to do so. However, if these parties have failed to take action and the Licensing Authority is aware of relevant grounds to make a representation, it may consider acting in its capacity as responsible Authority.</p>		<p>Removed to manage expectations 14.5 – 14.10 renumbered as 14.4 to 14.9</p>
<p><b>16 HEARINGS</b></p> <p><b>16.2</b></p>	<p>A sub-committee will consist of three suitably trained members of the Licensing Committee. The sub-committee will be advised on the law by a member of the Council's Legal Services Team. That legal team member will not be involved in the application process to prevent a conflict of interest by ensuring a clear separation of roles.</p>	<p>A sub-committee will consist of three suitably trained members of the Licensing Committee. The sub-committee will be advised on the law by a member of the Council's Legal Services Team. Where appropriate that legal team member will not be involved in the application process to</p>	<p>Amended for clarity.</p>



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APPENDIX II

		prevent a conflict of interest by ensuring a clear separation of roles.	
<b>Appendix A Page 30</b>	Population statistics updated and out of date information removed		
<b>Appendix C Page 32</b>	Contact details for consultees updated		
<b>Appendix D Page 34</b>	Contact details for updated		

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