

HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING POLICY **2016-2019**

Summary, Definitions & Interpretation

1. Throughout this document:

'The Council' or 'The Authority' means Swale Borough Council 'Vehicle' or 'Licensed Vehicle' means both a Hackney Carriage and Private Hire Vehicle

'Hackney Carriage' means a vehicle licensed under the Town Police Clauses Act 1847 to ply for hire throughout the district controlled by the Council.

'Private Hire vehicle' means a vehicle licensed under the Local Government (Miscellaneous Provisions) Act 1976 to carry passengers for hire or reward by prior booking.

'Private Hire Operator' means a person who makes provision for the acceptance of Private Hire bookings to undertake themselves or pass to others to undertake.

'The DfT' means the Department for Transport, including previous names under which that department has been known.

DVLA means the Driver and Vehicle Licensing Agency

'The DfT Guidance' means The Department for Transport – Hackney Carriage and Private Hire Vehicle Licensing: Best Practice Guidance, published in March 2010 • ECMT-IRU means the European Conference of Ministers of Transport and the International Road Transport Union

'The Licensing Sub Committee' means the Regulatory Board of the Council

The term 'DVLA driving licence' means a full original GB driving licence

The term 'Proprietor' means the owner of the licensed vehicle – this may not necessarily be the driver of the vehicle

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1.0 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:
- Transport Act 1985
 - Road Vehicles (Constructions and Use) Regulations 1986.
 - Crime and Disorder Act 1998
 - Environmental Protection Act 1990
 - Disability Discrimination Act 1995
 - Health Act 2006 and Smoke-free Regulations 2006/7
 - Legislative and Regulatory Reform Act 2006
 - Road Safety Act 2006 Road Traffic Acts
 - Health & Safety (First Aid) Regulations 1981
 - Equalities Act 2010

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 2010 the Dft's Guidance was updated and this policy revision takes the 2010 version into account.
- 1.2.4 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 policy builds on the industry's existing strengths and on the 2012 policy.
- 1.2.5 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.

1.2.6 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:

- Keeping Swale safe ☐
- Engaging and empowering communities within the Borough ☐
- Driving the economic development of the Borough ☐
- Ensuring a strong customer focus and delivering quality frontline services

1.2.7 The Council currently licenses approximately 422 drivers. There are approximately 221 hackney carriage vehicles and 67 private hire drivers.

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:

- (i) The protection of the health and safety of the public and of licensed drivers
- (ii) The prevention of crime and disorder and protection of customers and drivers from being the victims of crime
- (iii) 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
- (iv) Vehicle safety and the provision of assistance with public access to an efficient and effective public transport service

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 so doing.

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

- Representatives of the hackney carriage and private hire trade
- Kent County Constabulary
- Kent County Council Highways department
- Kent County Council (Schools contracts)
- Vehicle and Operator Services Agency
- Disabled Persons Transport Advisory Committee
- Local businesses and their representatives
- Local Residents and their representatives
- Swale Town Centre management

1.4.2 It is anticipated that, subject to a full consultation process, this policy will take effect from 2017.. This policy will be formally reviewed at least every five years. It will also be informally re-evaluated from time to time in the context of social and economic changes, the continued development of the Borough and any relevant representations arising from this.

1.4.3 Upon implementation of this policy, the Authority expects licence-holders to comply with its terms immediately.

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 DoT 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.

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

2.1.7 The policy takes into account the repeal of the private hire contract exemption and the possibility of an increase in the number of private hire vehicles and drivers.

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.

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 is 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. Swale Borough Council will therefore keep this section of the policy constantly under review.

2.3.2 The Council is aware of the government's proposals to implement the provisions of the Disability Discrimination Act 1995 in relation to hackney carriages (it does not apply to private hire vehicles). The Government announced its proposals for taxis in 2003 and since then has been consulting and gathering further information. The Government is now considering how best to bring forward requirements for accessible taxis, and this includes evaluation of all the options; both regulatory and non-regulatory approaches are being considered.

- 2.3.3 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 recognized 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.

2.4. 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 It is considered that efforts should be made, through the licensing policy, to improve, as far as possible, the efficiency of vehicles licensed in the borough by, in particular, reducing the levels of CO2 emitted. There is a movement towards the use of alternative fuels and in many areas LPG conversions to vehicles are perfectly acceptable and encouraged. This will, however, be dependent of supplies of such fuel being made readily available. It may also be the case that the installation of storage tanks into vehicles may affect the ability to carry luggage.
- 2.4.3 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.
- 2.4.4. In view of the above details unless more urgent measures are introduced by central government in the meantime, this Council will monitor any research published and Government guidelines with a view to specifying vehicle emissions standards and promoting cleaner fuels in respect of licensed taxis. The Council will be happy to consider applications to licence vehicles that are of an electric or hybrid type. Each application will be considered on its merits

2.5 Maximum Age of Vehicles

2.5.1 All vehicles, on first registration, will be less than 8 years old on the date of the application for the first licence and can be continued to be licensed up to 10 years old.

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2.5.2 Vehicles licensed for 8 seats with wheelchair accessibility will be less than 12 years old on the date of application for the first licence and can be licensed for up to 15 years.

2.5.3 All vehicles over 5 years old will be required to pass two tests per year, 6 months apart.

2.5.4 The age of vehicles will be judged by, so far as can be ascertained, the date of manufacture or first DVLA registration of the vehicle. All new vehicles will have low mileage (Less than 150,000) and be in pristine condition.

2.6 Vehicle Testing, Inspections and Insurance

2.6.1 No vehicle may be used as a taxi unless it has been given a Certificate of Compliance in respect of a satisfactory test, and has been appropriately licensed by the Council.

2.6.2 There will be an annual test for all vehicles with the exception of vehicles over five years old and special vehicles, such as limousines / executive vehicles, which will require twice yearly tests at intervals specified by the Council.

2.6.3 If a vehicle is not MOT tested or the MOT certificate is not presented to the Council at the six-month anniversary at a previously granted MOT certificate then the vehicle licence will be suspended until the MOT is presented.

2.6.4 Failure to present an MOT certificate within two (2) calendar months of its due date will result in the Vehicle licence being revoke automatically.

2.6.5 Vehicles will be subjected to periodic, random inspections by authorised officers of the council or other agencies (e.g. VOSA)

2.6.6 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 proved to the authorised officer that the vehicle defect has been corrected.

2.6.7 Where the relevant 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.

2.6.8 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.

2.6.9 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.

- 2.7.0 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 weeks will result in revocation of the licence.

2.7 Signage



- 2.7.1 Within the Borough of Swale, both hackney carriages and private hire vehicles are required to display licence plates externally on the rear of the vehicle. Hackney plates are white, private hire are yellow and limousine/executive vehicles blue. 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.
- 2.7.2 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).
- 2.7.3 The sign shall be so arranged that it is illuminated during the hours of darkness 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.
- 2.7.4 Similarly, and in order to differentiate between the two types of licensed vehicle, private hire vehicles and restricted 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' and will ideally contain a reference to the fact that the vehicle can only be pre-booked.
- 2.7.5 The top sign must be white, minimum width 400mm (16 inches long), centrally placed on 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.
- 2.7.5 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.
- 2.7.6 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 operation of chauffeured, executive and limousine vehicles is 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.
- 2.7.7 It is not intended that all private hire vehicles should have access to this exemption. Only a small minority operating the type of service described above. To that end it is only considered appropriate to issue exemption notices where the following requirements are met:
- The vehicle to be exempted is of a high quality both in terms of brand and condition
 - Vehicles will normally be the accepted luxury brands such as Rolls Royce and Bentley. Mercedes Benz, BMW, Jaguar and Lexus can be exempt depending on model. The highest specification executive type cars from other manufacturers may also be considered.
 - The vehicle must have no visible defects, dents or blemishes to the external bodywork or internal trim.
 - The plate and letter of exemption must always be carried in the vehicle at all times.
 - In the absence of a letter of exemption in the vehicle a plate must be displayed externally on the rear of the vehicle
 - The front internal vehicle plate should also be displayed in the front windscreen of the vehicle.



2.8 Advertising

- 2.8.1 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 operators are allowed to also display company details on the rear of vehicles. Door signs are not mandatory on Private Hire vehicles.
- 2.8.2 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 x 100mm deep. No other advertising, including radio stickers, football stickers or any other signs is permitted. Signs are not mandatory on Private Hire vehicles but can be fitted if desired. The size and style will be subject to the approval of the Hackney Carriage Inspector.
- 2.8.3 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 top sign.
- 2.8.4 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 and may also display the company name and/or telephone number, fleet number and e-mail address on the rear bodywork of vehicles with a maximum size of 600mm wide by 100mm deep.

2.9 Security and Closed Circuit Television (CCTV)

- 2.9.1 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:
- Threats and assaults on drivers
 - Allegations of drivers assaulting passengers
 - Customers leaving vehicles without paying
 - Allegations of theft associated with licensed vehicles
- 2.9.2 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:
- Helping to prevent crime
 - Identifying the perpetrators of crime
 - Reducing the fear of crime
 - Increasing the safety of drivers and passengers
- 2.9.3 All CCTV systems fitted to licensed vehicles must comply with the Approved CCTV protocol, and be confirmed by Swale Borough Council in writing.

2.10 Stretched Limousines

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

2.10.2 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. Therefore, licence applications for such vehicles will not be automatically rejected (for example just because the vehicles may be left-hand drive).

2.10.3 Licensing authorities have, however, generally considered there to be some problems preventing stretched limousines from being licensed including:

- Many of them are left hand drive; □
- Many are fitted with all round darkened glass;
- Most originate from the United States
- Many have been converted or modified after manufacture; • seating space per passenger is 405mm and could give a greater capacity than eight persons.
- Due to their origin many parts may not be available making adequate maintenance difficult.

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- 2.10.4 Accordingly, many Local Authorities have been reluctant to licence these vehicles because of possible risks to the public. Clearly, stretched limousines will normally fall within the private hire vehicle licensing regime for licensing and enforcement purposes, or if over eight seats, the Public Service Vehicle licensing regime.
- 2.10.5 Most limousines are imported for commercial purposes, although there are loopholes in the import procedures by which some vehicles may never be inspected prior to being used on roads in the UK.
- 2.10.6 Most limousines are imported for commercial purposes and are therefore required to take a Single Vehicle Type Approval (SVA) test. They cannot be approved as Passenger Carrying Vehicles (PCV) because they cannot meet the required standards for the door arrangements and means of escape in an emergency. The SVA Scheme is an Inspection Scheme for vehicles that are not approved to British and European Standards and its purpose is to ensure that these vehicles meet modern safety standards and environmental standards before being used on public roads. When presented for SVA the vehicle is produced with a declaration that it will never carry more than eight passengers. The importer must inform any person who may use it of this restriction. Any subsequent purchasers must also be informed of the restriction.
- 2.10.7 The Local Government (Miscellaneous Provisions) Act 1976 defines a private hire vehicle as a motor vehicle constructed or adapted to carry fewer than eight passengers, other than the hackney carriage or public service vehicle, which is provided for hire with the services of the driver for the purposes of carrying customers. Section 48 of the 1976 Act requires that before a licence is granted the Authority must be satisfied that the vehicle is:
- Suitable in type, size and design for the use as a private hire vehicle
 - Not of such design and appearance as to lead any person to believe that the vehicle is a hackney carriage;
 - In a suitable mechanical condition
 - Safe
 - Comfortable.
- 2.10.8 Stretched limousines may be granted a private hire vehicle licence provided that they are capable of carrying no more than eight passengers and meet the requirements of the Act. Possible exemptions under the 1976 Act provide that nothing should:
- 1) Apply to a vehicle used for bringing passengers or goods within a controlled district in pursuance of a contract for the hire of the vehicle made outside the district if the vehicle is not made available for hire within the district;
 - 2) Apply to a vehicle while it is being used in connection with a funeral or a vehicle used wholly or mainly by a person carrying on the business of a funeral director, for the purpose of funerals;
 - 3) Apply to a vehicle being used in connection with a wedding.
- 2.10.9 Stretched limousines which are not offered for private hire or which are used for funeral and weddings do not, as a rule, require a licence. Some operators of these vehicles have a wedding car insurance policy on the basis that the vehicle will be used largely during daylight hours, once or twice per week.

2.10.10 In accordance with the Guidance, all applications to license stretched limousines as private hire vehicles will be treated on their merits. Because these vehicles will not meet the usual vehicle specification, additional documentation and inspection will be needed in order that the Council's responsibility to ensure safety and suitability, prior to a licence being issued, can be met. Imported stretched limousine type vehicles will:

- Be granted an exemption from the requirement under the conditions of licence for private hire vehicles to be right hand drive;
- Be authorised as prestige type private hire vehicles;
- Be approved for licensing as private hire vehicles subject to the additional conditions detailed in APPENDIX D.

2.10.11 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.

2.10.12 Limousine drivers should ensure that they comply with the vehicle requirements and driver's and operator requirements.

2.11 Contract Vehicles

2.11.1 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 for hire or reward under a contract for the hire of the vehicle. This exemption only applied to the vehicle and driver subject to the contract and then only during the period of the contract. Any vehicles being used for a contract with one firm could not be used for any other contract or purpose during the period of that contract. This exemption has been repealed by provisions contained within the Road Safety Act 2006 that became effective in January 2008 and thus vehicles which previously took advantage of this exemption will now have to become licensed private hire vehicles.

2.12 Funeral Vehicles

2.12.1 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.

2.13 Wedding Vehicles

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

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

2.14 Courtesy Cars

2.14.1 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.

2.14.2 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.

2.15 Ambulances and Other Patient Transport

2.15.1 All ambulances registered with the British Ambulance Association will be exempt from private hire licensing.

2.15.2 Other patient transport services provided by either:

- 1) Primary Care Trusts
- 2) Voluntary services

that are registered with the British Ambulance Association will be exempt from private hire licensing.

2.15.3 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.

2.16 Voluntary Sector Transport

2.16.1 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.

2.16.2 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.

2.17 Livery

2.17.1 Some licensing authorities require taxis to conform to particular requirements in terms of livery and markings, in order that they may be easily identified. Such an imposition is not considered appropriate in this council's area. It is felt that the visual distinction between hackney carriages and private hire vehicles can be achieved by the appropriate signage as detailed at 2.7 and **APPENDIX A**.

2.18 Application Procedure

2.18.1 The application procedures for hackney carriage or private hire vehicle licence is not prescribed. Therefore existing practice will be largely retained. The Council requires that application must be made on a specified application form in accordance with application procedures set out in **APPENDIX D**.

2.19 Consideration of Applications

2.19.1 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.

2.20 Grant and Renewal of Licences

2.20.1 The Guidance makes no recommendations in respect of the duration of hackney carriage or private hire vehicle licences, therefore hackney carriage and private hire vehicle licences will continue to be licensed for a one year period from the date of grant, subject to the power to grant a licence for a shorter period should this be appropriate in the circumstances.

2.20.2 Council officers will send a reminder letter to the current taxi proprietor or operator two months before the existing licence expires in order to assist applicants in their prompt submission of re-licensing applications.

2.20.3 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.

2.20.4 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 licensed vehicle.

2.20.5 The licence fees payable are subject to periodic review and will be published together with other Council licensing fees.

3. Drivers

3.1 Licences

3.1.1 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.

3.1.2 The licensing authority will issue a licence to an applicant provided the applicant has held a full driving licence for at least 12 months and is a 'fit and proper person'. In assessing whether an applicant is a 'fit and proper person' to hold a licence the licensing authority will consider each case on its merits.

3.1.3 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 and previous history as a licence holder. The convictions 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 E**.

3.1.4 The Council will not consider an application for a driver's licence from any individual who works more than **30** hours a week in alternative employment.

3.1.5 Any foreign national will be required to give details of any residency outside the UK and sign a declaration that they are permitted to work in the UK. This is detailed on **APPENDIX F**. Applicants must also provide a document to evidence that they are permitted to work in the UK.

3.2 Age and Experience

- 3.2.1 A licence to drive a hackney carriage or private hire vehicle will not be granted to a person who is under 21 years age. However, no upper age limit is proposed provided that a driver can demonstrate that he is still medically fit to hold such a licence. In this respect therefore, if a driver wishes to continue to be licensed once he reaches 70 years of age the licensing authority shall require that he obtains a medical certificate at yearly intervals.
- 3.2.2 A licence will not be granted to anyone over 21 years of age who has not held a full driving licence, issued in accordance with the Road Traffic Act 1972 (as amended) for a period of at least 12 months immediately prior to the application.
- 3.2.3 The above policy requirements have been made because:
A licensed driver is responsible for the safety of the customer and is required to need a mature attitude when dealing with those who may be vulnerable or otherwise have special needs and Insurance accident statistics show regularly that there is a higher degree of responsibility in driver behaviour above 21.
- 3.2.4 An applicant who meets the licensing requirements by virtue of an acceptable non-UK driving licence must obtain a full UK driving licence within twelve months of the issue of a hackney carriage or private hire driver's licence. Where this requirement is not satisfied the hackney carriage or private hire driver's licence will automatically be suspended pending compliance.
- 3.2.5 This policy requirement is to ensure appropriate regulation of any penalty points by the courts in relation to road traffic offences. The Council consider this an integral part of the 'fit and proper person' test.
- 3.2.6 An applicant will also be asked to complete a form authorising the Council to apply to DVLA for a driver licence history.

3.3 Driver Knowledge Tests

- 3.3.1 Drivers clearly need a good working knowledge of the area for which they are licensed. The DoT recognises that most authorities require prospective drivers to pass a test as to their knowledge of the local geography (known locally as the Knowledge Test) as a condition of first grant of a licence. This test will also test the driver's knowledge of the Highway Code and the Council's Licensing Policy as well as basic knowledge of hackney carriage and private hire law. 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.
- 3.3.3 There appears to be no substantial difficulty concerning the use of or understanding spoken English amongst taxi drivers in this area, and therefore no compulsory language test is considered to be necessary at this time. However in any individual case where it is determined by authorised officers that a language test may be necessary this will form part of the Street Knowledge Test.

3.4 Driving Proficiency and Qualifications

- 3.4.1 The Driving and Vehicle Standards Agency (DVSA) first introduced a practical driving test specifically designed for hackney carriage and private hire drivers in 1999. Many authorities require the DVSA test or some further driving test to be taken before a driver's licence is issued.
- 3.4.2 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. An assessment of a driver's ability should, therefore, be obtained by all new applicants, and by any existing driver, where, in the opinion of either an authorised officer of the Council or the police, there is doubt as to the driver's technical competency. The cost of the DVSA test will be borne by the driver.
- 3.4.3 All new applicants for hackney carriage or private hire driving licences will therefore be required to produce evidence that they have successfully completed the DSA practical driving test before a licence will be granted. In the case of new hackney carriage drivers using a wheelchair accessible vehicle this test must include a wheelchair assessment.
- 3.4.4 Applicants should not apply for the DVSA test until such time as they have been informed by the Council that they have succeeded in passing the Street Knowledge Test.
- 3.4.5 Whilst the Council has no current plans to make it a mandatory requirement for a driver to obtain a professional qualification, for example an NVQ or BTEC in transporting passengers by taxi, the Council would encourage drivers to do so. It is of credit to the taxi trade in Swale that at least 60% of drivers have already obtained such a qualification voluntarily.
- 3.4.6 Similarly the Council would encourage drivers to undergo practical passenger assistance training with particular regard to those with special physical needs.

3.4 Medical Examination

- 3.4.7 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.
- 3.4.8 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.

3.4.10 Licence holders must advise the Council of any deterioration in their health that may affect their driving capabilities.

3.4.11 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.

3.4.12 Where there remains any doubt about the fitness of any applicant the Director of Corporate Services 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.

3.5 **Disclosure and Barring Service Criminal Records Checks**

3.6.1 A criminal records check on a driver is an important safety measure. While the DBS has released guidance that such checks should not be at the level of an Enhanced Disclosure, there are certain circumstances where some drivers will be carrying out regulated activity. This may include when they transport children or vulnerable adults to or from a regulated activity and it is organised by the providers of the regulated activity or an organisation working on their behalf, e.g. a Local Authority school contract. Those carrying out regulated activity would qualify for an enhanced DBS check.

3.6.2 It is not regulated activity if a child/vulnerable adult hires a taxi in the street or by telephone privately.

3.6.3 An enhanced DBS check allows councils access to intelligence on alleged sexual assaults, rapes, terrorist activity, drug dealing and organised crime. A standard DBS check only highlights where somebody has been convicted of a crime. It is unable to raise the alarm if there have been multiple accusations of a sufficient concern to investigate further.

3.6.4 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 vehicles and, as drivers are exempt from the Rehabilitation of Offenders Act 1974; an Enhanced Disclosure should continue to be the requirement for new drivers and for those renewing their licences.

3.6.5 The Rehabilitation of Offenders Act 1974 sets out the period after which a conviction is regarded as 'spent' and which would not normally necessitate disclosure of that conviction. 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 convictions and police cautions, including those that would previously been regarded as 'spent' under the 1974 Act

- 3.6.6 Swale Borough Council is an accredited Disclosure and Barring Services body, therefore applicants can deal with the DBS through the Council. The applicant will be responsible for payment of the appropriate fee.
- 3.6.7 All applicants should sign up to the DBS Update Service as the cost over the 3 years is less. The certificate is portable and may be taken to another Licensing Authority and applications for the renewal of their taxi driver's licence may be made more easily online. Swale Council will no longer be issuing temporary badges. It will be the driver's responsibility to make sure they have joined the DBS Update Service to be able to renew their badges on time.
- 3.6.8 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.
- 3.6.9 The Council may request another disclosure at any time if a further check is considered necessary.
- 3.6.10 The Council is bound by rules of confidentiality and will not divulge information obtained to any third parties. The applicant for a DBS check will be sent a separate certificate to their home address (if using the paper version).
- 3.6.11 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.
- 3.6.12 The Council therefore requires that 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

3.7 Relevance of Convictions and Cautions

- 3.7.1 The Guidance recommends 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 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. Such a policy should encompass applicants from elsewhere in the EU and other overseas countries by, for example, by requiring a certificate of good conduct authenticated by the relevant embassy.
- 3.7.2 The Council has generally worked to the guidelines set out in the DoT Circular 2/92 and Home Office Circular 13/92 in assessing the relevance of specific criminal convictions to a particular application. However a guide to the relevance of previous convictions, cautions and fixed penalty notices is in **APPENDIX E**.
- 3.7.3 The Council will consider each application on its merits once the appropriate tests have been undertaken and the application form and supporting documents are complete.
- 3.7.4 In assessing whether the applicant is a fit and proper person to hold a licence the Council will consider each case on its merits. It will take account of cautions, convictions, and fixed penalty notices 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 convictions are capable of having significant relevance as to whether the applicant is a fit and proper person to hold a licence.

3.7.5 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.

3.7.6 In relation to previous convictions the Council will have regard to the following:

- Whether the convictions are spent or unspent;
- The class of the offences;
- The age of the offences;
- The apparent seriousness, as gauged by the penalty.

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

3.7.7 In particular, applications may be rejected where the applicant's record includes one or more of the following:

- Any term of imprisonment or custody;
- Any conviction for a violent or sexual offence, or dishonesty, which is of a serious nature;
- Any serious motoring offence, such as dangerous driving, driving whilst disqualified, or drink driving;
- More than six current points have been acquired on their DVLA Driving Licence.

3.8 Application Procedure

3.8.1 An application for a hackney carriage or private hire driver's licence must be made on the specified application form. The application procedure is set out in **APPENDIX D**.

3.9 Grant and Renewal of Licences

3.9.1 Drivers' licences are 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 it would be more appropriate to do so.

3.9.2 Council officers will send a reminder letter to the current taxi proprietor or operator, one month 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.

3.9.5 The licence fees payable are subject to periodic review and will be published together with other Council licensing fees.

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 as are considered necessary.
- 3.10.2 It could be argued that many of the requirements prescribed within the Hackney bye laws are effectively hackney carriage driver's licence conditions. 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. Amending bye-laws is a complex and lengthy process with inherent restrictions. It is, accordingly, not proposed to seek such amendments as part of this review process.
- 3.10.3 It is considered that the conditions set out in **APPENDIX J** are reasonable, necessary and proportionate for all licensed drivers but accepted that they may only be legally imposed in respect of private hire drivers.
- 3.10.4 In accordance with the above, the penalty point system detailed in **APPENDIX I** is not a condition of licence. It is, however, a transparent and consistent method for the Council to determine whether or not a driver meets the 'fit and proper person' test.

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 J**, which it is proposed will be adopted. The Code should be read in conjunction with the other statutory and policy requirements set out in this document.
- 3.11.3 Failure to comply with any aspect of the Code of Good Conduct will not in itself result in enforcement action. However, breach of the Code of Conduct is an indicator which officers will use to help decide upon subsequent enforcement action. This may result in advice or warnings being given by officers or, if necessary, by the Regulatory Board. Repeated breaches following such advice or warnings may lead to more serious consequences including, if necessary, non-renewal, suspension or revocation of licences.
- 3.11.4 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.
- 3.11.5 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.
- 3.11.6 Any information provided by an individual will only be used for purposes connected with his application. Information will only be further used or transferred to other organisations and individuals as the law permits.

4. Private Hire Operators

- 4.1 Any person who operates a private hire service utilising one or more private hire vehicles must apply to the Council for a Private Hire Operator's Licence. 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.
- 4.1.2 The primary objective in licensing private hire operators is the safety of the public, both in the vehicles and at the operator's premises.
- 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 A private hire operator must ensure that every private hire vehicle is driven by a person who holds a private hire driver's licence.
- 4.1.5 All three licences:
- Private hire operator's licence
 - Private hire driver's licence
 - Private hire vehicle licence

must be issued by the same Licensing Authority

- 4.1.6 Applications for an operator's licences must be made on the prescribed form, together with the appropriate fee. The Council will then decide whether the applicant is a fit and proper person to hold an operator's licence.
- 4.1.7 The Operator must inform the Council in writing of any change of address (whether this is a home address or the address from which he/she operates). The Council will not grant an Operator's licence for any address outside the area of Swale Borough Council. This is to ensure that proper regulation and enforcement measures may be taken by the Council. It is in no way intended to be a restraint on the trade.

4.2 Criminal Record Checks

- 4.2.1 Private hire operators, that are not licensed drivers, cannot be required to produce an enhanced DBS disclosure. A Basic Disclosure from the DBS, 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 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.
- 4.2.3 Before an application for a private hire operator's licence will be considered the applicant must provide a current Basic DBS Disclosure of Criminal Convictions, or a Certificate of Good Conduct from the relevant embassy in the case of an overseas applicant.

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 K** are those considered to be reasonably necessary.

4.4 Record Keeping

- 4.4.1 Requiring operators to keep records of each booking, including the name of the passenger, the destination, the name of the driver and the number of the vehicle is accepted as good practice. This would, for example, enable police checks to be made if any mishap should befall a passenger and assist with the recovery of lost property to the rightful owner.
- 4.4.2 Operators must keep records in respect of all bookings, vehicles and drivers for a period of one year.
- 4.4.3 Such records are to be made available to any authorised officer of the Council or a police officer upon request.

4.5 Insurance

- 4.5.1 It is considered appropriate for a Licensing Authority to check that appropriate public liability insurance has been taken out for premises that are open to the public.
- 4.5.2 Before an application for a private hire operator's licence is granted, the applicant must produce evidence that they have taken out appropriate public liability insurance for the premises to be licensed.
- 4.5.3 The conditions applicable to Private Hire Operator's Licences as detailed in **APPENDIX K**, require that the operator produces an appropriate certificate of motor insurance which covers every private hire vehicle they operate.

4.6 Licence Duration

- 4.6.1 The DoT 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.
- 4.6.2 However, it is considered that five years is a considerable period of time in the context of the life of this type of business. Swale Borough Council will therefore continue its practice to issue a successful applicant with an annual Operator's licence.
- 4.6.3 Holders of existing Private Hire Operator's Licences will be reminded, two months preceding their expiry, when their licences are due to be renewed.

4.7 Address from which an Operator may operate

- 4.7.1 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.

4.8 Bases outside the Swale Borough Council Area

- 4.8.1 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 intended to be a restraint of trade.

5. Fares and Fees

5.1 Fares

- 5.1.1 Hackney Carriage Fares, set by the Council, are a maximum and can be negotiated downwards by the hirer. Swale Borough Council considers it good practice to review the fare scales at regular intervals and will, therefore, consider the fare scales at a period not exceeding 24 months.
- 5.1.2 When determining the level of fares consideration will be given as to what it is reasonable to expect the travelling public to pay as well as the need to give drivers an incentive to provide a cost-effective service at the times it is needed.
- 5.1.3 Fares can be negotiated prior to the commencement of the journey in both private hire vehicles and hackney carriages.
- 5.1.4 One of the main complaints relating to hackney carriages concerns overcharging. To protect the fare paying public from overcharging, as well as to protect the drivers from complaints, Swale Council will operate a simple fare tariff that must be displayed in all hackney carriages.
- 5.1.5 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.
- 5.1.6 These regulations in relation to fares do not apply to private hire vehicles.
- 5.1.7 A table of authorised fares will be provided to each hackney carriage licence holder, which must be displayed in each vehicle so that it is easily visible to all hirers.
- 5.1.8 A hackney carriage driver must, if requested by the passenger, provide a written receipt for the fare paid.
- 5.1.9 The Guidance also recognises that there is a case for allowing any hackney carriage operators 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 Cheques for licence applications should be made payable to 'Swale Borough Council'. Cash payments can be made by payment using a paypoint letter.
- 5.3.2 All payments should 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, the Council will make a refund in respect of the whole months 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 4.2 of this document.
- 6.1.3 The Taxi Licensing and Enforcement Policy & Practice set out at **APPENDIX N** 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 breaches of vehicle requirements, 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 points 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.
- 6.3.4 Penalty points will remain on a licence for a period of three years from the date on which they are imposed. If a driver accumulates twelve or more penalty points within a period of thirty six months, commencing from the date of imposition of the earliest ‘live’ penalty points, then the case will be referred to the Licensing Sub Committee.
- 6.3.6 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 I**

6.4 Range of Powers

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

6.4.2 Suspension

(i) Vehicles

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.

(ii) Drivers

The Council may exercise its discretion to suspend the operation of a driver's licence for a specified period. Action may be taken by an authorised officer.

6.4.3 Revocation

Where a licence holder has been referred to the relevant 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 may order the revocation or suspension of the licence.

6.4.4 Refusal to Renew

As an alternative to revocation the Regulatory Board 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.

6.4.5 Issuing of Warnings and Cautions

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

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

This is more fully discussed in **APPENDIX N**

6.4.6 Prosecution

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

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

7. OFFENCES

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

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

The relevant offences under the 1847 Act, the 1976 and the 1980 Act are set out in APPENDICES I

8. TAXI RANKS

- 8.1.1 A number of ranks for hackney carriages have been designated within the Swale Borough Council area:

Station road Faversham	Hope Way Sheerness
Stone Street, Faversham	Sheerness Railway Station
Central Avenue, Sittingbourne	Bridge Road, Sheerness
High Street, Sittingbourne	
Forum Service Road, Sittingbourne	
Sittingbourne Railway station	

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

- 8.1.2 The Council wishes to assist those members of the public to easily access taxis that have provision to carry a wheelchair and as such are currently considering designating a specific rank to be used by wheelchair accessible taxis only.

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. AMENDMENTS TO THE POLICY

- 9.1 Where there are specific provisions within the policy for making amendments, for example section 5.2.3 that provides for an addendum to be published detailing the revised table of authorised fares, the Director of Corporate Services may authorise the amendment without further consultation.
- 9.2 This does in relation to such amendments, for example the consultation process in determining the new fare tariff not compromise, however, any other consultation that may be undertaken by the Council.
- 9.3 Any substantial amendment to this policy, not specifically provided for as detailed in 9.1 will only be implemented after further consultation with the trade and the public. All substantial amendments must be authorised by the Cabinet of the Council.
- 9.4. For the purpose of this section, any substantial amendment is defined as one that:
- will have a significant financial effect on licence holders, or
 - will have a significant procedural effect on licence holders, or
 - may not be perceived by the trade or the public to be consistent with the published objectives in Section 1.3 of this policy.
- 9.5 Any minor amendment to this policy, not specifically provided for as detailed in Section 9.3 of this policy, may be authorised by the Director of Corporate Services.

10. RIGHTS OF APPEAL

- 10.1 In general terms, where an applicant is aggrieved by the Council's decision to refuse to grant, refuse to renew, suspend or revoke a licence; the applicant has a right of appeal to the local Magistrates' Court. The specific grounds for appeal are detailed in APPENDIX O.
- 10.2 Any appeal must be lodged at the Court within twenty-one days of the applicant receiving notification of the Council's decision. The appeal must state the grounds upon which the appeal is based.

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APPENDIX A

HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES SPECIFICATION AND SCHEDULE OF CONDITIONS

Conditions that apply to both types of vehicles

1. General Construction

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

1 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 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.

2.2 Vehicles will be no more than eight 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 must be in a pristine condition.

2.3 All multi-seat vehicles with more than 6 passenger seats that are licensed for 15 year must be fitted with full tracking and/or flip up seating to be wheelchair accessible 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.

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.

2.5 The engine capacity must not be more than 2800 cc. The engine capacity must not be less than 1400 cc. for a petrol engine and 1500 cc. for a diesel engine.

3. Body

3.1 The body must be of the fixed head type.

3.2 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.

3.3 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.

3.4 Provision must be made for carrying and securing luggage and if luggage is carried or intended to be carried on the roof a roof rack of a type or roof mounted luggage box approved by the Council must be fitted.

3.5 The overall length of the vehicle must not be not less than 14 feet (4267mm) in length

3.6 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.

- 3.6 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. Steering

The steering wheel must be on the offside of the vehicle and 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.

5. Tyres

- 5.1 All tyres at normal pressure under load must have a suitable minimum circumference for correct operation of the taximeter.
- 5.2 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.

7 Suspension

- 7.1.1 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

- 8.1.1 The filling point for all fuel tanks must be accessible only from the outside if 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:
- The passenger carrying capacity will be at the discretion of the licensing authority.
 - The rear seat of the vehicle of the vehicle must be a minimum of 1.22 metres long
 - (405 millimetres, 16 inches per person)
 - The rear seat of the vehicle of the vehicle must be a minimum of 1.22 metres long (405 millimetres, 16 inches per person)
 - The seat is to be measured where the rear of the cushion meets the back of the seat
 - All seats must be fitted with fully operational seat belts
 - The number of passenger seats must remain as stated on the vehicle licence
 - There must be no alteration to the seating configuration without notifying
 - All seats must be forward or rear facing the Council
 - All vehicles must be able to seat a minimum of 4 passengers in comfort with sufficient legroom for all passengers

10. Tinted glass

- 10.1 □ Vehicles are manufactured and produced with window glass in various tints or film coatings from clear to jet-black, the latter making it impossible to view into the passenger compartment. □ The removal of film coating from windows is far less expensive than the changing of glass. These heavily tinted windows may be of concern to women passengers travelling alone, and parents of children travelling unaccompanied. Many of the vehicles supplied with tinted glass are acceptable, however in the interests of safety and reassurance to passengers, tinted glass or mirrored glass that restricts all view into the passenger compartment will not be accepted on licensed vehicles. The final decision on whether a vehicle in this regard rests with authorised officers of the Council.

11. Luggage

- 11.1 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.
- 11.2 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.

12 Facilities for driver

- 12.1 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.
- 12.2 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.
- 12.3 The vehicle must be fitted with adequate devices for demisting and defrosting the windscreen and rear window and for washing the windscreen.

13 Heating

- 13.1 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 must be provided for independent control by the driver and passengers

14 Communication between Passenger and Driver

- 14.1 Sufficient means must be provided by which any person in the vehicle may communicate with the driver.

15 Floor covering

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

16 Fire Extinguisher

- 16.1 A fire extinguisher must be carried in all licensed vehicles. Such an appliance must be either
- ABC General Purpose Powder
 - AFFF Foam
- and conform to BSEN 3, showing the appropriate kite mark
- 16.2 All extinguishers must be certified in accordance with the appropriate British Standard. The date of expiry must be clearly visible on the extinguisher.

□

17 Radio Equipment

- 17.1 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.

18 Mobile Telephones

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

20 Identification Plates

- 20.1 Within the Borough of Swale, both Hackney Carriages and Private Hire Vehicles are required to permanently display licence plates externally on the rear of the vehicle.

The authorised identification plates issued by the Council must be affixed to the vehicle as follows:

- i) the large identification plate shall be permanently fixed to the rear of the vehicle in a conspicuous position, plates are NOT allowed within the rear window.
- ii) the small identification plate shall be positioned at the top of the front nearside corner of the windscreen.

NOTE: Magnetic plates are not allowed.

- 20.2 No vehicle may be used or permitted to be used with any such plate concealed from view or so defaced that any word, letter, figure or material particular is illegible.

21 Fittings

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

22 Seat Belts

- 22.1 All vehicles must be fitted with fully operational seat belts, one for each passenger carried, fully compliant with the relevant British Standard, except where legislation specifically provides an exemption.
- 22.2 In relation to the carriage of all passengers, including children, the requirements of all relevant legislation must be complied with. The law regarding seatbelts and children is explained in **APPENDIX B**

23 Alteration of Vehicle

- 23.1 No material alteration or change in the specification, design, condition or appearance of any vehicle shall be made without the approval of the Council at any time while a licence is in force in respect of that vehicle.
- 23.2 Equipment must not be removed from a vehicle which is wheelchair accessible which would render the vehicle incapable of carrying wheelchair bound passengers.

24 Maintenance of Vehicle

- 24.1 The vehicle (including the engine area) and all its fittings and equipment shall at all times when the vehicle is in use or available for hire be kept in an efficient, safe, tidy and clean condition and all relevant statutory requirements (including in particular those contained in the Road Vehicles (Construction and Use) Regulations) in force from time to time shall be fully complied with.
- 24.2 Any corroded or damaged body panels or other parts must be properly repaired or renewed, all splits or cracks must be properly welded and all paintwork properly finished off.
- 24.3 All vehicles over 5 years old will be required to have a statutory MOT test at a qualified testing station every six months.

17.1 There shall be carried and maintained in such a position as to be readily available for use and prominently marked adequate and suitable first aid equipment suitable for treating minor injuries. (Beware! – a driver should not render aid to any other person unless he holds a current First Aid Certificate – Health and Safety Rules).

24.4 Vehicles are liable to be examined at any time by an authorised officer of the council, the Vehicle Inspectorate or the Police.

25 Disability Access

25.1 Where a vehicle is utilised for the carriage of passengers in a wheelchair, the following conditions shall apply: i) Access to and exit from the wheelchair position must not be obstructed in any manner at any time except by wheelchair loading apparatus. ii) 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.

iii) A suitable restraint must be available for the occupant of a wheelchair. iv) Access ramps or lifts to the vehicle must be securely fixed prior to use, and be able to support the wheelchair, occupant and helper. v) Ramps and lifts must be securely stored in the vehicle before it may move off.

25.2 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.

25.3 Test certification is to be made available to an authorised officer of the council upon request.

26 Smoking

26.1 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.

26.2 Hackney carriage and private hire vehicles are required to be smoke free at all times, whether they are being used for work or for private use.

26.3 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 the signage must be displayed in a prominent position.

26.4. 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:

- the driver
- any person with management responsibilities for the vehicle
- any person in a vehicle who is responsible for order or safety in it

26.5 The smoking of e-cigarettes is not permitted in licenced vehicles.

27 Animals

27.1 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.

27.2 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.

- 27.3 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.

28 The Licensing Officer

- 28.1 It is a criminal offence to obstruct a Licensing Officer or any other authorised officer of the Council.
- 28.2 From time to time it is necessary for the Licensing Officer or any other authorised officer to examine or check the vehicle.

Conditions that apply to Hackney Carriage Vehicles only

29 Seating for purpose built hackney carriages

- 29.1 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 undeflected 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 undeflected 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.
- 29.2 Nothing in condition 29.1 above 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

30. Taximeters

- 30.1. 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.

- 30.2 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.
- 30.3 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.
- 30.4 An official copy of the Council's fare tariff shall be clearly displayed in the vehicles so as to be plainly visible to passengers carried therein.
- 30.5 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.
- 30.6 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.
- 30.3 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 for the time being.
- 30.4 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.

31 Roof Sign

- 31.1 There must be fitted externally to the roof in a position and of a size and type approved by the council a sign showing to the front the word 'TAXI' additionally the Proprietors trading name may be shown.
- 31.2 The rear of the sign may be left blank or have the word 'TAXI' showing. Alternatively, the proprietor's trading name and/or telephone number may be shown.
- 31.3 The sign shall be so arranged that it is illuminated during the hours of darkness 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.
- 31.4 The roof sign may be removed while the vehicle is being used in connection with a funeral, a wedding or other special occasion.

32 Fare Table

- 32.1 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.

Conditions that apply to Private Hire vehicles only

33 Taximeter

33.1 Any taximeter with which the vehicle is provided shall be so constructed, attached and maintained as to comply with the following requirements:

- i) the taximeter shall not be fitted with a flag or other device bearing the words 'FOR HIRE'
- ii) 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
- iii) 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
- iv) 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.
- v) 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.
- vi) 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.
- vii) 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.

APPENDIX B HACKNEY CARRIAGES AND PRIVATE HIRE

VEHICLES SEATBELT REGULATIONS AND CHILDREN

	Front Seat	Rear Seat	Who is responsible?
Driver	Seat belt MUST be worn if fitted		Driver
Child under 3 years of age	Correct child restraint MUST be used	Correct child restraint MUST be used. If one is not available in a taxi, may travel unrestrained	Driver
Child from 3rd birthday up to 1.35 metres in height (or 12th birthday, whichever they reach first)	Correct child restraint MUST be used	Correct child restraint MUST be used where seat belts are fitted. MUST use adult belt if correct child restraint is not available in a licensed taxi or private hire vehicle, or for reasons of unexpected necessity over a short distance, or if two occupied restraints prevent fitment of a third	Driver
Child over 1.35 metres (approx 4ft 5ins) in height or 12 or 13 years	Adult seat MUST be worn if available	Adult seat MUST be worn if available	Driver
Adult passengers aged 14 and over	Seat belt MUST be worn if available	Seat belt MUST be worn if available	Passenger

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APPENDIX C ADDITIONAL CONDITIONS FOR PRIVATE HIRE LIMOUSINES

1 TYPES OF VEHICLES

1.1 The vehicle must have one of the following:

- (i) A UK Single Vehicle Approval Certificate
- (ii) A European Whole Vehicle Approval Certificate
- (iii) UK Low Volume Type Approval Certificate

1.1.2 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.

2 VEHICLE AND SAFETY EQUIPMENT

2.1 Stretched limousines and similar vehicles shall comply with the existing conditions of licence applicable to all 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:

- (i) 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;
- (ii) ensure that loose luggage is not carried within the passenger compartment of the vehicle;
- (iii) ensure that if any CCTV cameras installed in the vehicle have received prior written approval of the Council; and
- (iv) display a Council approved sign, in a position clearly visible to passengers, warning customers that camera surveillance equipment may be in operation.
- (v) 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

- 3.2 The proprietor of the vehicle or the holder of a private hire operator's licence responsible for the booking shall:

(i) ensure that the vehicle is at all times only driven by a person who holds a current private hire vehicle driver's licence issued by Swale Borough Council;

(ii) 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;

(iii) ensure that in any advertisement publicising their limousine service, the vehicle is only licensed to carry a maximum of eight passengers.

(iv) not convey any passengers in the front compartment of the vehicle;

(v) not supply any intoxicating liquor in the vehicle unless there is in force an appropriate authorisation under the Licensing Act 2003 permitting the sale or supply of the same.

(vi) if the occupants are below the age of 18, there should be no alcohol in the vehicle for consumption or otherwise.

(vii) any glassware in the vehicle must be made of either shatterproof glass or plastic.

(viii) 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.

(ix) if the limousine parks to provide some sort of entertainment to its passengers, the relevant authorisation must be in place in accordance with the Licensing Act 2003.

(x) when directed by the Council, display and maintain any notices in conspicuous position.

4 VEHICLE IDENTIFICATION

- 4.1 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, 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:

(i) the vehicle identification is displayed on the top left-hand corner of the front windscreen in a conspicuous position where it can be clearly seen from the outside of the vehicle and all wording and lettering contained thereon be read. The other identification 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;

(ii) 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.

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:

(i) A statutory MOT test at a qualified testing station every six months.

(ii) 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.

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.

6.2 If the insurance cover on the vehicle is cancelled, expires or fails to cover the use to which the vehicle is being put, the Licence 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 his private hire limousine vehicle, he shall, before that person commences to drive the vehicle, cause the driver to deliver to him a copy of his private hire vehicle driver's licence or restricted private hire vehicle driver's 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 SVA certificate at time of licensing.

APPENDIX D

HACKNEY CARRIAGE AND PRIVATE HIRE APPLICATION PROCEDURES

1. VEHICLES

1.1 New licences and renewal licences

1.1.2 An applicant will need to complete, in full, the necessary application form as follows:

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

1.1.3 The following documents must also be produced:

- i) The Vehicle Registration Document issued by the DVLA, or proof of ownership
- ii) 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
- iii) MOT certificate

If the documentation is complete, photocopies will be taken of all documents. The copies will be retained and the originals returned to the applicant.

1.1.4 The relevant fee must also be paid.

1.1.5 All of the above 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.

1.1.6 Officers may only accept complete applications comprising of 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.

1.1.7 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.

1.2 Replacement Vehicle on an existing hackney carriage or private hire vehicle

1.2.1 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.

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

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

1.3.1 This is the only licence that may be transferred

1.3.2 Documentation as described in 1.1.3 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.

1.3.3 There is a fee for this process.

1 **DRIVERS**

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

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

2.1.2 All applicants must be over 21 years of age and not be in other employment totalling more than **30** hours a week. Where considered necessary confirmation of hours worked must be obtained from the applicant's employer.

2.1.3 **New drivers**

2.1.4 All new applicants for Hackey Carriage or Dual badge must firstly pass the Knowledge Test as detailed in **APPENDIX H**.

2.1.5 An applicant has 6 months in which to take out a licence subsequent to successfully passing the Knowledge Test.

2.1.6 The following documentation must then be provided:

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

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

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

- b) A practical driving test certificate for hackney carriage and private hire drivers.

- c) A medical certificate, obtained from the drivers own GP or someone with access to his medical records indicating that the applicant is physically fit and able to fulfil the role, to DVLA Vocational Group 2 Standards.
- d) A completed application form for an Enhanced Disclosure and Barring Service Check. All overseas applicants who have resided in this country for less than three years 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.
- e) Any foreign national will be required to give details of any residency outside the UK and sign a declaration that they are permitted to work in the UK. Applicants must also provide a document to evidence that they are permitted to work in the UK.
- f) Proof of identity – Passport or Birth Certificate
- g) Confirmation of address – Utility bill or the like
- h) 1 colour photographs, of passport size and standard, showing the full face of the applicant as it would normally appear.
- i) Proof of National Insurance Number

If the documentation is complete, photocopies will taken of all original documents and returned to the applicant

2.1.7 The appropriate fee must be paid

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

2.1.9 **Drivers renewing licences**

The following documentation must then be provided:

- a) Full UK Drivers licence
- b) A medical certificate, obtained from the drivers own GP or someone with access to his medical records indicating that the applicant is physically fit and able to fulfil the role, to DVLA Vocational Group 2 Standards.
- d) A completed application form for an Enhanced Disclosure and Barring Service Check. All overseas applicants who have resided in this country for less than three years must obtain a Certificate of Good Conduct from their relevant embassy or consulate, at the applicant's expense, authenticated, translated and sealed by the embassy or consulate.
- e) Any foreign national will be required to give details of any residency outside the UK and sign a declaration that they are permitted to work in the UK. Applicants must also provide a document to evidence that they are permitted to work in the UK.
- f) Proof of identity – Passport or Birth Certificate

- g) Confirmation of address – Utility bill or the like
- h) 1 colour photographs, of passport size and standard, showing the full face of the applicant as it would normally appear.

If the documentation is complete, photocopies will taken of all original documents and returned to the applicant

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

3. Private Hire Operator's

- 3.1 The applicant will complete, in full, the application form

- 3.1.1 The following documentation must be provided:

- a) Proof of public liability insurance
- b) Basic Disclosure and Barring Service criminal records check for each person named on the application form if applicant is not a licensed driver.

If the documentation is complete, photocopies will taken of all original documents and returned to the applicant.

- 3.1.2 The appropriate fee must be paid

- 3.1.3 The licence will be issued

4. Applications general

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

- 4.2 At that time it will be decided whether the application is likely to be successful in the light of the Council's Policy of the Relevance of Convictions as detailed in paragraph 3.7, either by approval by authorised officers, or by reference to the Licensing Sub Committee

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

- 4.4 When the DBS check has been returned, the application will be considered in the light of the information provided. It is therefore necessary to ensure that details of ALL convictions and cautions are provided at the initial stage. a serious view will be taken of any application which seeks to conceal any caution or conviction in order to obtain a Licence. This will lead to consideration of the applicant as not being a 'fit and proper person', and probable refusal of the application. Any information relating to criminal background will only be kept as long as it is necessary for assessment purposes.

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

APPENDIX E

GUIDELINES RELATING TO THE RELEVANCE OF PREVIOUS CONVICTIONS

1 General Policy

1. Each case will be decided on its own merits.
- 1.2 The overriding consideration is the safety of the public. The Council has a duty to so far as possible that those licensed to drive hackney carriage and private hire vehicles are suitable persons to do so, that they are safe drivers with good driving records and adequate experience, sober, courteous, mentally and physically fit, honest and not persons who would take advantage of their employment to abuse or assault passengers.
- 1.3 A person with a current conviction for a serious crime need not be permanently barred from obtaining a licence but should be expected to (a) remain free of conviction for an appropriate period and (b) show adequate evidence of good character from the time of the conviction. Simply remaining free of conviction will not generally be regarded as sufficient evidence of good character.
- 1.4 Some discretion may be appropriate if the offence is isolated and there are mitigating circumstances. Similarly, multiple offences or a series of offences over a period of time are likely to give greater cause for concern and may demonstrate a pattern of inappropriate behaviour which will be taken into account.
- 1.5 The following examples afford a general guide on the action which might be taken where convictions are disclosed.

2 Offences of Dishonesty

- 2.1 Drivers of hackney carriage and private hire vehicles are expected to be persons of trust. It is comparatively easy for a dishonest driver to defraud the public by demanding more than the legal fare and in other ways.
- 2.2 Members of the public entrust themselves to the care of drivers both for their own safety and for fair dealing. Passengers may comprise especially vulnerable people.
- 2.3 For these reasons a serious view is taken of any convictions involving dishonesty. In general, a period of 4 years free of conviction will be required before an application is likely to be considered favourably.
- 2.4 In particular, an application will normally be refused where the applicant has a conviction for an offence of:

- Theft
- Burglar
- Fraud
- Benefit fraud (including offences under ss.111A and 112 of the Social Security Administration Act 1992)
- Handling or receiving stolen goods
- Forgery
- Conspiracy to defraud
- Obtaining money or property by deception
- Other deception

and the conviction is less than 4 years prior to the date of the application.

2.5 Between 4 and 5 years after conviction more weight will be given to the circumstances of the offence and any evidence adduced to show good character since the date of conviction.

3 Violence

3.1 As hackney carriage and private hire drivers maintain close contact with the public, in general a period of 4 to 10 years free of conviction for offences involving violence (depending on the nature and seriousness of the offence) will be required before an application is likely to be considered favourably.

3.2 In particular:

(i) An application will normally be refused where the applicant has a conviction for an offence of:

- Murder
- Manslaughter
- Manslaughter or culpable homicide while driving
- Arson
- Malicious wounding or grievous bodily harm (s.20 Offences Against the Person Act 1861) which is racially aggravated (s.29(1)(a) Crime and Disorder Act 1998)
- Actual bodily harm (s.47 Offences Against the Person Act 1861) which is racially aggravated (s.29(1)(b) Crime and Disorder Act 1998)

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

(ii) An application will normally be refused where the applicant has a conviction for an offence of:

- Grievous bodily harm with intent (s.18 Offences Against the Person Act)
- Grievous bodily harm (s.20 Offences Against the Person Act) « Robbery
- Racially-aggravated criminal damage (s.30 Crime and Disorder Act 1998)
- Racially-aggravated s.4 Public Order Act 1986 offence (fear or provocation of violence) (s.31(1)(a) Crime and Disorder Act 1998)
- Racially-aggravated s.4A Public Order Act 1986 Offence (intentional harassment, alarm or distress) (s.31 (1)(b) Crime and Disorder Act 1998)
- Racially-aggravated s.2 Protection from Harassment Act 1997 offence (harassment) (s.32(1)(a) Crime and Disorder Act 1998)
- Racially-aggravated s.4 Protection from Harassment Act 1997 offence (putting people in fear of violence) (s.32(1)(b) Crime and Disorder Act 1998)

and the conviction is less than 8 years prior to the date of application.

(iii) Between 8 and 10 years after conviction more weight will be given to the circumstances of the offence and any evidence adduced to show good character since the date of conviction. An application will normally be refused where the applicant has a conviction for an offence of:

- Common assault
- Common assault which is racially aggravated (s.29(1)(c) Crime and Disorder Act 1998)

- Assault occasioning actual bodily harm (s.47 Offences Against the Person Act))
- Assault on a police officer
- Affray
- Racially aggravated s.5 Public Order Act 1986 offence (harassment, alarm or distress) (s.31(1)(c) Crime and Disorder Act 1998)
- Riot
- Obstruction
- Possession of offensive weapon
- Possession of firearm
- Criminal damage
- Violent disorder
- Resisting arrest

and the conviction is less than 4 years prior to the date of application.

3.4 Between 4 and 8 years after conviction more weight will be given to the circumstances of the offence and any evidence adduced to show good character since the date of conviction.

4. Drugs

4.1 An application will normally be refused where the applicant has a conviction for a drug-related offence and the conviction is less than 5 years prior to the date of application.

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

2 Indecency Offences

5.1 As hackney carriage and private hire drivers often carry unaccompanied passengers, applicants with convictions for soliciting, importuning, indecent exposure or any sexual offence will normally be refused a licence until they can show a substantial period (usually between 5 and 10 years) free from any such conviction.

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

- Rape
- Indecent assault
- Gross indecency with a female
- Gross indecency with a male
- Indecent assault on a child under 16 years
- Buggery
- Is on the sex offenders register

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

6. Motoring Convictions

6.1 Major Traffic Offences

An isolated conviction, without disqualification, for an offence such as dangerous driving or driving without due care and attention will require careful consideration of the facts and will at the very least merit a warning as to future driving and advice on

the standard expected of hackney carriage and private hire vehicle drivers. However, where the conviction is within 6 months prior to the date of the application the application will normally be refused.

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

A list of offences to which this paragraph applies can be found at **Appendix F**

6.2 Minor Traffic Offences

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

In particular, an application will normally be refused where the applicant has 6 or more penalty points on his DVLA licence (whether or not the applicant was convicted by a court for the offences for which the points were imposed) or where the applicant has more than one conviction for this type of offence within the last 6 months.

A list of offences to which this paragraph applies can be at Appendix F.

6.3 Hybrid Traffic Offences

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

6.4 Disqualification

6.4.1 Where an applicant has been disqualified from driving because of a major traffic offence the application will generally be refused unless a period of 2 years free from conviction has elapsed from the restoration of the DVLA licence.

6.4.2 Where several minor traffic offences have resulted in the applicant being disqualified from driving for a period of time this will normally be taken as reflecting seriously on the applicant's driving standard. Generally, a period of 12 months free from conviction must have elapsed from the restoration of the DVLA licence.

6.4.3 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 the Council is likely to be refused a hackney carriage or private hire driver's licence because different criteria apply and an applicant will normally be expected to show a period of 12 months free from conviction from the date the court made its finding of exceptional circumstances justifying the non-disqualification.

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

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

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

6.6 Drunkenness

6.6.1 With a motor vehicle

A serious view will be taken of convictions of driving or being in charge of a vehicle while under the influence of drink. Where a disqualification has occurred as a result of a drink-driving offence, at least 5 years free from conviction should elapse after the restoration of the DVLA licence before an applicant is granted a licence.

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

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

6.6.2 Not in a motor vehicle

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

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

6.7 Cautions and Endorsable Fixed Penalties

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

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

6.7.1 Under the 1974 Act, criminal convictions can become spent after a certain period of time, and once spent, for many purposes, can be disregarded completely.

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

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

6.7.4 Despite the above, the principles of the Act do not apply to applicants for hackney carriage and private hire drivers' licences. This is because the driving of these

vehicles is listed as a 'Regulated Occupation' in relation to which questions may be asked as to the suitability of individuals to be granted a licence.

6.7.5 Although the Act does not prevent any judicial authorities, including the Licensing Authority, from taking spent convictions into account, such convictions are only admissible in so far as they are relevant to the issue as to whether the applicant is a 'fit and proper person' to hold a licence.

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

6.7.7 The rehabilitation periods to which reference is most commonly made are set out below. For further details on the periods of rehabilitation applicable to all sentencing options, reference will need to be made to a specialist textbook on the Act

Sentence/disposal	Rehabilitation Period	
	Adults (18 or over when convicted)	Young Persons (under 18 when convicted)
Custodial sentences, including: Imprisonment (including suspended sentence), Detention in a young offender institution, Borstal, Youth custody, Corrective training	* These periods are measured from the day on which the sentence, including any licence period, is completed	
Over 48 months (4 years)	Never	Never
From 30 months to 48 months (2½ -4yrs)	7 years from end of sentence *	3½ years from end of sentence*
From 6 months to 30 months (½ -2½yrs)	4 years from end of sentence*	2 years from end of sentence*
6 months or less	2 years from end of sentence*	18 months from end of sentence*
Armed forces service detention	1 year from end of sentence*	6 months from end of sentence*
Removal from Her Majesty's service	1 year from conviction date	6 months from conviction date
Fine	1 year from conviction date	6 months from conviction date
Compensation Order	When paid in full	When paid in full
Community Order Youth Rehabilitation Order	1 year from end of order	6 months from end of order
	2 years from date of conviction if the order does not state an end date	
Conditional discharge	End of period specified in the order	End of the period specified in the order
Referral Order, Disqualification Order, Hospital Order,	End of the period specified in the order	End of the period specified in the order

Supervision Order		
Cautions		
Conditional Caution	3 months after issue, or on discharge of the conditions	3 months after issue, or on discharge of the conditions
Simple caution, Reprimand, Final warning	Spent immediately	Spent immediately

The periods set out in this table take effect from 10th March 2014.

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

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APPENDIX E (Continued)

RELEVANCE OF PREVIOUS CONVICTIONS

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)

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)

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 F

**HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER LICENSING
DETAILS OF RESIDENCY OUTSIDE THE UNITED KINGDOM**

Full Name	Surname	Forename(s)
Address		
Have you ever been a resident of a country other than the United Kingdom	Yes – if so please provide details below of the dates and countries of which you have been resident	No – if so please sign below and return the form with your application
	Date of Residency	
Name of Country	From	To

- 1 If you are not a British national you **MUST** provide documentation to show that you are permitted to work in the United Kingdom.
- 2 Under section 57(3) of the Local Government (Miscellaneous Provisions) Act 1976, if any person knowingly or recklessly makes a false statement or omits any material particular in giving information under this section he shall be guilty of an offence.

DECLARATION

I declare that:

- a. I have checked the details above and that to the best of my knowledge and belief they are true and correct in every respect.
- b. I am not barred from taking up employment in the United Kingdom.
- c. I confirm that I have read and understood each section of this form and answered to best of my knowledge, belief and ability.

NAME:

SIGNATURE:

DATE:

APPENDIX G 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 Hackney Driver badge are required to pass a Knowledge Test.
- 1.2 Before an individual applies to sit the Knowledge Tests they should be satisfied that they can fulfil all other Council requirements to become a licensed driver.
- 1.3 An individual should not sit and pass a Driving Vehicle Standards Agency assessment, or obtain a Disclosure and Barring Service Enhanced Check or a medical unless and until they pass the Knowledge Test.
- 1.4 All elements of the test must achieve the required pass mark. All successive candidates will need to achieve an overall pass mark of 80%
- 1.5 Any number of tests may be taken, but if an applicant fails he will be put to the bottom of the waiting list.
- 1.6 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.
- 1.7 Any person found cheating will be disqualified from the test and another application will not be accepted for a period of two years.

2. The Knowledge Test

- 2.1 The test will consist of the four parts:
 - a) Nine questions requiring the shortest route by distance between a pick-up point and destination in the chosen area that the applicant is willing to work.
 - b) Six questions requiring the shortest route by distance between a pick-up point and a destination across the rest of the Borough of Swale.
 - c) Five questions relating to the locations of prominent buildings, such as schools, churches, hotels, public houses, restaurants and places of interest (Street Key Landmarks).
 - d) Twenty multiple choice questions relating to applicants' knowledge and understating of the law in respect of hackney carriage and private hire licensing. The questions will relate to legislation, bye-laws, and conditions etc and will also include questions relating to customer care, calculation of change for a given fare and basic conversation.

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APPENDIX H

PRIVATE HIRE DRIVER'S LICENCE CONDITIONS

1. Conduct of Driver

- 1.1. The holder of a private hire driver's licence (hereafter known in this Appendix as the driver) shall comply with the following conditions, which should be read in conjunction with the Code of Conduct set out in **APPENDIX K**.
- 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 importune, any person to hire or be carried for hire and must not accept an offer for the hire of the vehicle except where that is first communicated to the driver by telephone.
- 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, he shall within 7 days give details in writing of the conviction 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:
 - i) The safety, performance or appearance of the vehicle
 - ii) The comfort or convenience of the passengersmust 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 his medical records to the effect that he is, or continues 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:
- i) Driving ability
 - ii) 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:
- i) Unless the hirer expresses at the commencement of the journey his desire to engage by time, bring the meter into operation at the commencement of the journey, and bring the machinery of the taxi-meter into action by moving the said key, flag or other device, before beginning a journey and keep the machinery of the taxi-meter in action until the termination of the hiring.
 - ii) 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.
 - iii) Cause the dial of the taxi-meter to be kept properly illuminated throughout any part of the hiring which is during the hours of darkness as defined for the purposes of the Road Traffic Act 1972, and also at any other time at the request if the hirer.
 - iv) Not demand from any hirer of a private hire vehicles a fare in excess of any previously agreed for that hiring between the hirer and the operator or, if the vehicle is fitted with a fare meter, the fare shown on the face of the taxi-meter.
- 1 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 that that determined by the taxi-meter.

2 Wheelchair Accessible Vehicles

- 4.1 All drivers of wheelchair accessible vehicles must:
- i) Be fully conversant with the correct method of operation of all ramps, lifts and wheelchair restraints fitted to the vehicle.
 - ii) 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.

- iii) 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.

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APPENDIX I 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.
- 1.3 Where it is decided that the use of the penalty points system is appropriate, the points will be issued in accordance with this appendix. If this appendix allows a range of points for a particular incident, the authorised officer will determine the appropriate number of points proportionate to the offence.
- 1.4 Penalty points will only be imposed where the licensee agrees the breach or offence has taken place. Where the licensee does not agree that the breach or offence has taken place the matter will be referred to the Senior Licensing Officer for consideration regarding further action.
- 1.5 The imposition of penalty points against a driver who is an employee will not necessarily result in additional imposition of points to his/her employer or operator. However, the Council retains the discretion to issue penalty points to drivers, driver/proprietors and operators for a single contravention if the circumstances warrant it i.e. the breach is one against all these licences and it is considered joint responsibility is held.
- 1.6 When issued, the penalty points will remain "live" for a period of three years from the date they are imposed.
- 1.7 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 period, the driver will appear in front of the Licensing Sub Committee where appropriate action will be taken in accordance with this policy.

- 1.12 A driver will always have the right to be represented at any meeting, either legally or otherwise, and to state any mitigating circumstances he deems necessary.
- 1.13 Any driver or vehicle proprietor or operator subject to suspension or revocation has the right of appeal to the Magistrates Court against the suspension or revocation. All suspensions will therefore be subject to a 21-day appeals period prior to implementation to allow for the formal appeals process.
- 1.14 The penalty points system will operate without prejudice to the Council's ability to take other action under appropriate legislation or as provided for by this policy.
- 1.15 The penalty points system outlined below identifies a number of breaches of conditions, byelaws and/or statutory provisions. It then indicates the number of points to be invoked should the breach be proven.

2. Penalty Points Tariff

2.1 Legislative offences and penalties:

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

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

The offences are set out below under the relevant statute

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

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

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

Town Police Clauses Act 1847				
Code	Section	Offence	Level of Fine	Maximum Penalty Points that can be imposed
T1	40	Giving false information on a hackney carriage licence application	1	12
T2	44	Failure to notify change of address on a hackney carriage licence	1	2
T3	45	Plying for hire without a hackney carriage licence	4	12
T4	47	Driving a hackney carriage without a hackney carriage driver's licence	3	12

T5	47	Lending or parting with a hackney carriage driver's licence	3	4
T6	47	Hackney carriage proprietor employing an unlicensed driver	3	8
T7	48	Failure of a proprietor to hold a hackney carriage driver's licence		6
T8	48	Failure of a proprietor to produce a hackney carriage driver's licence	1	3
T9	52	Failure to display a hackney carriage plate	1	4
T10	53	Refusal to take a fare without a reasonable excuse	2	12
T11	54	Charging more than the agreed fare	1	12
T12	55	Obtaining more than the legal fare (including failure to refund)	3 and 1 month's imprisonment	12
T13	56	Travelling less than the lawful distance for an agreed fare	11	6
T14	57	Failure to wait after a deposit to wait has been paid	3	6
T15	58	Charging more than the legal fare	1	12
T16	59	Carrying persons other than with the consent of the hirer	1	8
T17	60	Driving a hackney carriage without the proprietor's consent	1	12
T18	60	Allowing a person to drive a hackney carriage without the proprietor's consent	1	12
T19	62	Driver leaving a hackney carriage unattended	1	2
T20	64	Hackney carriage driver obstructing other hackney carriages	1	3

Local Government (Miscellaneous Provisions) Act 1976

Code	Section	Offence	Level of Fine	Maximum Penalty Points
A1/O	46(1)(A)	Using an unlicensed private hire vehicle	3 by virtue of s76	12
A2/O	46(1)(b)	Driving a private hire vehicle without a private hire driver's licence	3 by virtue of s76	12
A3/O	46(1)(c)	Proprietor of a private hire vehicle using an unlicensed driver	3 by virtue of s76	8
A4/O	46(1)(d)	Operating a private hire vehicle without a private hire operators' licence	3 by virtue of s76	8
A5/O	46(1)(e)	Operating a vehicle as a private hire vehicle when the vehicle is not licensed as a private hire vehicle	3 by virtue of s76	12
A6/O	46(1)(e)	Operating a private hire vehicle when the driver is not licensed as a private hire driver	3 by virtue of s76	8
A7/O	48(6)	Failure to display a private hire vehicle plate	3 by virtue of s76	4
A8/O	49	Failure to notify the transfer of a vehicle licence	3 by virtue of s76	3

A9/O	50(1)	Failure to present a hackney carriage or private hire vehicle for inspection upon request	3 by virtue of s76	12
A10/O	50(2)	Failure to inform the Council where a hackney carriage or private hire vehicle is stored, if requested	3 by virtue of s76	3
A11/O	50(3)	Failure to report an accident to the Council within seventy two hours	3 by virtue of s76	6
A13/O	50(4)	Failure to produce the vehicle and insurance upon request	3 by virtue of s76	12
A14/O	53(3)	Failure to produce a driver's licence upon request	3 by virtue of s76	3
A15/O	54(2)	Failure to wear a private hire driver's badge	3 by virtue of s76	6
A16/O	56(2)	Failure of a private hire operator to keep proper records of all bookings, or failure to produce them upon request of an authorised officer of the Council or a police officer	3 by virtue of s76	6
A17/O	56(3)	Failure of a private hire operator to keep proper records of all private hire vehicles, or failure to produce them on request of an authorised officer of the Council or a police officer	3 by virtue of s76	6
A18/O	56(4)	Failure of a private hire operator to produce his licence upon request	3 by virtue of s76	4
A19/O	57	Making a false statement or withholding information to obtain a hackney carriage private hire driver's licence	3 by virtue of s76	12
A20/O	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	3 by virtue of s76	12
A21/O	61(2)	Failure to surrender a driver's licence after suspension, revocation, or refusal to renew	3 by virtue of s76	12
A22/O	64	Permitting any vehicle other than a hackney carriage to wait on a hackney carriage rank	3 by virtue of s76	6
A23/O	66	Charging more than the meter fare for a journey ending outside the District, without prior agreement		12
A24/O	67	Charging more than the meter fare when a hackney carriage is used as a private hire vehicle	3 by virtue of s76	12
A25/O	69	Unnecessarily prolonging a journey	3 by virtue of s76	12
A25/O	71	Interfering with a taxi-meter with intent to mislead	3 by virtue of s76	12
A27/O	73(1)(a)	Obstruction of an authorised officer of the Council or a police officer	3 by virtue of s76	12
A28/O	73(1)(b)	Failure to comply with a requirement of an authorised officer of the Council or a police officer	3 by virtue of s76	12
A29/O	73(1)(c)	Failure to give information or assistance to an authorised officer of the Council or police officer	3 by virtue of s76	12

2.2 Hackney Carriage and Private Hire Licensing Policy

Code	Breach of Policy Requirement	Maximum Points
P1	Failure to wear a driver's badge	6
P2	Failure to adhere to the Code of Good Conduct for Licensed Drivers where not mentioned below	6
P3	Failure to ensure the safety of passengers	12
P4	Concealing or defacing a vehicle licence plate	6
P5	Failure to attend on time for a pre-arranged booking without reasonable cause	2
P6	Conveying a greater number of passengers than permitted	6
P7	Failure to give reasonable assistance with passenger's luggage	3
P8	Private hire soliciting for hire or accepting a fare that is not pre-booked	12
P9	Operating/using a vehicle that is not clean and tidy and in a safe condition internally or externally	3
P10	Driving without the consent of the proprietor	6
P11	Drinking or eating in the vehicle whilst carrying passengers	2
P12	Smoking or prevent smoking in the vehicle at any time	6
P13	Causing excessive noise from any radio or sound-reproducing equipment	2
P14	Sounding the horn to signal that the vehicle has arrived disturbing residents	2
P15	Allowing a private hire vehicle to stand in such a position as to suggest that it is plying for hire or using a hackney carriage stand	6
P16	Allowing a hackney carriage vehicle to stand in a position, not being a hackney carriage stand, to suggest that is plying for hire	6
P17	Using a non-hands free mobile telephone whilst driving	12
P18	Failure to advise of a relevant medical condition	12
P19	Failure to provide a receipt for a fare when requested	2
P20	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	12
P21	Failure to notify the Council of any amendment to the details of a licence within fourteen days	3
P22	Failure to produce a licence upon request	3
P23	Failure to notify within seven days of starting or terminating employment, the name and address of the proprietor and the term of employment	3
P24	Failure to show a private hire driver's licence to the private hire operator at the commencement of employment	2
P25	Failure of a private hire operator to request and/or record details of a private hire driver's licence at the beginning of employment	2
P26	Failure to surrender a driver's licence, badge or plate upon request	12
P27	Failure of a licence holder to disclose convictions within seven days of conviction	12
P28	Carrying any animal other than a guide, hearing or other prescribed assistance dog or those owned by bona-fide fare paying passengers	2
P29	Failure to report an accident within seventy-two hours	3
P30	Failure to comply with requirements for the safe carrying of a wheelchair	6

P31	Operating a vehicle that does not comply with the Council's licensing policy where such a breach of policy requirements is not otherwise specified herein	6
P32	Operating/using a vehicle which is not maintained in a sound and roadworthy condition	12
P33	Failure to carry an approved fire extinguisher	3
P34	Modifying a vehicle without the consent of the Council	12
P35	Failure to display or maintain external plates as issued by the Council or displaying them incorrectly e.g. in the window of a vehicle	4
P36	Failure to display or maintain Internal plates as issued by the Council or displaying them incorrectly e.g. near the driver side	4
P37	Affixing or displaying a roof sign on a private hire vehicle	12
P38	Displaying a sign or advertisement on a licensed vehicle that does not satisfy the policy requirements or has not been approved by the Council	4
P39	Carrying radio equipment or similar devices not in accordance with council requirements	2
P40	Using a taxi-meter that does not conform to Council requirements	6
P41	Driving with no insurance or inadequate insurance for the vehicle	12
P42	Permitting the vehicle to be used for any illegal or immoral purposes	12
P43	Failure of a private hire operator to ensure that office staff act in a civil and courteous manner at all times	3
P44	Failure of a private hire operator to keep the operating premises in accordance with council requirements	3
P45	Failure of a private hire operator to ensure that all vehicles operated by him are adequately insured	12
P46	Failure of a private hire operator to obtain public liability insurance for the operating premises if the public are allowed access	12
P47	Failure to produce a valid MOT certificate every 6 months upon request of an authorised officer	12
P48	Failure to proceed with all reasonable speed to the next available rank	8
P49	Carrying an offensive weapon in the vehicle including imitation firearms	12
P50	Waiting or stopping on a double yellow line or a bus stop	6
P51	Failure to notify, in writing, a change in medical circumstances	6
P52	Failure to observe rank discipline e.g. failure to move up	3
P53	A licensed vehicle with a defective tyre	4
P54	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	12
P55	Any other transgression not contained within the penalty points system which in the opinion of an authorised officer should have penalty points imposed	6-12
P56	Failure to have a working hackney carriage roof light that is lit when available for hire	3
P57	Failure to display the current fare chart so that it is clearly visible to passengers	3
P58	Failure to keep a copy of a valid insurance certificate in the vehicle	3
P59	Failure to display door logos (to the required measurements) on the exterior of the two front doors of the vehicle	3

APPENDIX J 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.

2 Responsibility to the Trade

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

- i) complying with this Code of Conduct
- ii) complying with the Council's Hackney Carriage and Private Hire Licensing Policy
- iii) 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

The code of dress for drivers is:

1. Shirt/Tie
2. Polo Shirt
3. Plain tailored trousers
4. Three Quarter length trousers (plain tailored)
5. Shoes/sandals
6. Trainers – Black only
7. Dresses allowed as long as they have a sleeve.

Not allowed: T-shirts, Tracksuit tops or bottoms, collarless tops, football shirts or shorts, denim jeans, white trainers, combat style trousers, short skirts, bare midriff, beach shorts, sleeveless tops, sleeveless vests.

Clothing should not include sport and associated logos or motifs.
Company logos are acceptable.

5. General

Drivers shall:

- a) pay attention to personal hygiene and dress code, 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 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.

6. 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:

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

APPENDIX K 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.
- 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.

2.2 All records shall be maintained by the operator shall be kept for at least twelve months after entry and shall be produced for inspection, on request, by any authorised officer of the Council or any police officer.

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).

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. Drivers

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

- 7.2
- 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 his duties, if the operator becomes aware of any such condition
 - f) Expiry dates of drivers' badges and vehicle licences

6. Disclosure of Convictions

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

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

7. Insurance

7.1 The operator shall ensure that a certificate of motor insurance covers every private hire vehicle operated by him under the operator's licence, which is compliant with the Road Traffic Act 1988 as regards the carriage of passengers for hire or reward.

8. Private Hire Drivers' Licences

8.1.1 If the private hire operator has premises to which the public have access, in connection with the hiring of vehicles, he shall ensure that there is public liability insurance in force, which indemnifies him against any claim for loss, damage or personal injury by any person using those premises.

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

9. Miscellaneous

- 9.1 If a licensed operator changes either his home or business address, he must, within seven days, give written notice to the Council specifying his new address.
- 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

APPENDIX L



HACKNEY CARRIAGE FARES

S.65 Local Government (Miscellaneous Provisions) Act 1976

Swale Borough Council has authorised **MAXIMUM** fares for hackney carriages by distance or a combination of distance and time in accordance with the table below with effect from: 6th October 2013

	<u>MILEAGE</u>	
(a)	If the distance does not exceed 200 metres for the whole distance	£2.80
(b)	If the distance exceeds 200 metres – for the first 200 metres	£2.80
	For each subsequent 88 metres or uncompleted part thereof	10 pence
	<u>WAITING TIME</u>	
	For each period of 1 minute or uncompleted part thereof	£0.30
	<u>EXTRA CHARGES:</u>	
	For hiring's begun between 11pm and 6am and for Bank Holidays (including Easter Sunday) and between 6pm and 11pm on 24th December (excluding 11pm 24th December to 6am 27th December and 6pm 31st December to 6am on 1st January)	+50% of above charges
	The fares for distance will be DOUBLED between 11pm on 24th December and 6am on 27th December and between 6pm 31st December and 6am on 1st January.	
	A charge of up to £50 will be applied for the soiling of a vehicle should it be soiled to the extent that it has to be taken out of service to be cleaned.	
	For additional passengers in excess of 4, or for a specific request to hire a vehicle with more than 4 passenger seats (excluding wheelchair users accompanied by less than 4 other passengers)	+ 50%
	When this Hackney Carriage is hired by distance it is an offence for the proprietor or driver to demand and take a fare greater than that shown on the taximeter. Any discount given to the customer must be discounted from the amount shown on the meter.	

FARES FOR TIME

If the Hackney Carriage is hired by time the fare shall be agreed with the hirer at the commencement of the hiring

COMPLAINTS

If you have any complaints about this vehicle or driver please write to the Head of Service Delivery, Swale Borough Council, Swale House, East Street, Sittingbourne Kent ME10 3HT.

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APPENDIX M

Application fees for 2016-2017

Type of Licence	Duration	Fee
Private Hire Vehicle	1 Year	£160
Hackney Carriage Vehicle	1 Year	£160
Plate Deposit (refundable)		£100
Replacement Plate		£15
Intermediate 6 monthly licence		£60
SKT exam		£20
Dual Badge - Driver	3 Years	£120
Licence plate for temporary hire vehicle		£40
Operator – up to 5 vehicles	5 Years	£100

APPENDIX N 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 both the relevant law and the conditions attached to the licences.
- 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:
- agreed standards and procedures
 - helpfulness
 - openness
 - transparency
 - proportionality
 - consistency
 - complaints procedure
- 1.3 All enforcement action, be it verbal warnings, the issue of written warnings, statutory notices, appearance before the committee or prosecution, will primarily be based upon the seriousness of the breach and the possible consequences arising out of it. Enforcement action will not, therefore, constitute a punitive response to minor technical contraventions of legislation.
- 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 Senior Licensing Officer 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 Senior Licensing Officer 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:

- (1) Seriousness of any offences;
- (2) Driver or Operator's past history;
- (3) Consequence of non-compliance;
- (4) likely effectiveness of the various enforcement options;
- (5) danger to the public.

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

2.3.1 Licence Applications:

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

2.3.2 Enforcement Action:

- take no action;
- take informal action;
- use statutory notices, (stop notices etc.);
- suspend a licence;
- revoke a licence;
- use simple cautions;
- prosecute
- a combination of any of the above

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

3. Informal Action

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

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

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

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.

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 convictions 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:

- 1) no action;
- 2) a written warning;
- 3) require the production of driving licences or other specified documentation at the Council's Office;
- 4) suspend a licence;
- 5) revoke a licence;
- 6) recommend prosecution action
- 7) 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 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 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:
- where there is a blatant disregard for the law, particularly where the economic advantages of breaking the law are substantial and the law-abiding are placed at a disadvantage to those who disregard it;
 - when there appears to have been reckless disregard for the safety of passengers or other road users;
 - where there have been repeated breaches of legal requirements;
 - where a particular type of offence is prevalent;
 - where a particular contravention has caused serious public alarm.
- 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 Corporate Director as well as the Senior Licensing 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 (November 2004), 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:
- the seriousness of the alleged offence;
 - the risk or harm to the public;
 - identifiable victims;
 - failure to comply with a statutory notice served for a significant breach of legislation;
 - disregard of safety for financial reward;
 - the previous history of the party concerned;
 - offences following a history of similar offences;
 - failure to respond positively to past warnings;
 - the ability of any important witnesses and their willingness to cooperate;
 - the willingness of the party to prevent a recurrence of the problem;
 - 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);
 - whether other action, such as issuing a simple caution in accordance with the Home Office Circular 016/2008 would be a more appropriate or effective.

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:

- to deal quickly and simply with less serious offences;
- to divert less serious offences away from the Courts;
- 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:

- there must be evidence of the suspected offender's guilt sufficient to give a realistic prospect of conviction;
- the suspected offender must admit the offence;
- 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:

- contain all the information necessary to understand the offence and what needs to be done to rectify it. Where works are required, the period allowed for them to be completed will be indicated;
- indicate the legislation or conditions contravened and measures which will enable compliance with the legal requirements and point out, where appropriate, that other means of achieving the same effect may be chosen; and
- 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 O

GROUNDS FOR APPEAL TO MAGISTRATES' COURT

1. 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
2. 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
3. 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
4. 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
5. 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
6. Any person 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 a Magistrates' Court under Section 60 of the Local Government (Miscellaneous Provisions) Act 1976
7. 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
8. 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

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

APPENDIX P

SUMMARY OF LEGISLATION

TOWN POLICE CLAUSES ACT 1847	
Section 46 Driver not to act without first obtaining a licence	No person shall act as a driver of any hackney carriage without first obtaining a licence
Section 48 Proprietors to retain licences of drivers and produce the same before justices' on complaint	Proprietors must retain licences of drivers while they remain in his employment. Where the proprietor of a hackney carriage is summoned before a justice or to produce the driver he shall also produce the licence of the driver if he is in his employment
Section 52 Penalty for neglect or refusing to exhibit the prescribed number of passengers	If the proprietor, or driver of any hackney carriage permits the same to be used, employed, stand or ply for hire without having the number of persons to be carried displayed in the prescribed manner
Section 53 Penalty on driver for refusing to drive	The driver of any hackney carriage standing at any stands for hackney carriages or in any street, without reasonable excuse shall not refuse or neglect to drive such carriage to any place within the prescribed distance
Section 54 Demanding more than the sum agreed	Proprietors or drivers of hackney carriages or any person on his behalf is not permitted to exact or demand more than the fare agreed
Section 55 Payment of more than the legal fare	No agreement whatsoever shall be made between the driver or with any person having or pretending to have the care of any such hackney carriage, for the payment of more than the fare allowed by any byelaw or Act
Section 56 Agreement to carry passengers a discretionary distance for a fixed sum	If the proprietor or driver of any hackney carriage, or any other person on his behalf, agrees to carry persons for a distance at the discretion of the proprietor or driver, and for a sum agreed upon, he shall not carry those persons for a lesser distance than would be allowed by the sum agreed according to the scale of fares in force
Section 57 Deposits made for hackney carriages required to wait	When a hackney carriage is hired and taken to any place, and the driver is required to wait by the hirer, the driver may demand his fare for driving to such place, and a fare for the waiting period
Section 59 Persons riding without the consent of the hirer	No proprietor or driver of any hackney carriage which is hired, shall not without the express consent of the person hiring the said hackney carriage permit any other person to be carried in such hackney carriage
Section 60 No unauthorised person to act as driver	No authorised driver of a hackney carriage shall allow any person, whether licensed or not, to act as the driver of any hackney carriage without the consent of the proprietor
Section 61 Drunkenness and furious driving	No driver or any other person having or pretending to have the care of any such hackney carriage shall do so whilst intoxicated, or drive in a wanton and furious manner, or by any other wilful misconduct injure or endanger any person in his life limb or property
Section 62 Carriages being left at places of public resort	A driver of any hackney carriage may not leave it in any street or any place or public resort or entertainment, whether it be hired or not, without someone proper to take care of it
Section 64 Drivers obstructing other drivers	Any driver of any hackney carriage shall not obstruct or hinder any driver of any carriage in taking up or setting down any person into or from that carriage, nor shall they, in a forcible manner prevent or endeavour the driver of any other hackney carriage from being hired

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976

<p>Section 46 Vehicle, driver and operators licences</p>	<p>No person being the proprietor of any vehicle not being a hackney carriage in respect of which a vehicle licence is in force, shall use or permit the same to be used in a controlled district as a private hire vehicle without having for such a vehicle a current licence under section 48 of this Act No person shall act in a controlled district as a driver of any private hire vehicle without having a current licence under section 51 of this Act No person being the proprietor of a private hire vehicle licensed under this part of this Act shall employ as the driver thereof for the purpose of any hiring any person who does not have a current licence under the said section 51 No person in a controlled district shall operate any vehicle as a private hire vehicle without having obtained a current licence under section 55 of this Act No person licensed under the said section 55 shall in a controlled district operate any vehicle as a private hire vehicle – (i) if the vehicle does not have a current licence under section 48 of this Act (ii) if the driver does not have current licence under section 51 of this Act</p>
<p>Section 49 Transfer of hackney carriage and private hire vehicles</p>	<p>The proprietor of a hackney carriage or private hire vehicle shall give written notice to the district council within fourteen (14) days of the transfer of the vehicle. Such notification shall specify the name and address of the person to whom the hackney carriage or private hire vehicle has been transferred</p>
<p>Section 50 Provisions as to proprietors</p>	<p>(1) The proprietor of any hackney carriage or private hire vehicle licensed by a district council shall present such hackney carriage or private hire vehicle for inspection and testing by or on behalf of the council within such period and at such place within the area of the council as they may by notice reasonably require (2) The proprietor of any hackney carriage or private hire vehicle shall, within such period as the district council may by notice reasonably require, state in writing the address if every place where such hackney carriage or private hire vehicle is kept when not in use (3) The proprietor of a hackney carriage or private hire vehicle licensed by a district council shall report to them as soon as reasonably practicable, and in any case within 72 hours of the occurrence thereof any accident to such hackney carriage or private hire vehicle causing damage materially affecting the safety, performance or appearance of the hackney carriage or private hire vehicle or the comfort or convenience of persons carried therein (4) The proprietor of any hackney carriage or private hire vehicle licensed by a district council shall at the request of any authorised officer of the council produce for inspection the vehicle licence for such hackney carriage or private hire vehicle and the Certificate of Policy of Insurance or security required by the Road Traffic Acts in respect of such hackney carriage or private hire vehicle</p>
<p>Section 53 Drivers' licences for hackney carriage and private hire vehicles</p>	<p>The driver of any hackney carriage or of any private hire vehicle licensed by a district council shall at the request of any authorised officer of the council or of any constable produce for inspection his drivers' licence wither forthwith or (a) in the case of the request by an authorised officer at the principal offices of the council, before the expiration of the period of five days beginning with the day following that on which the request was made (b) in the case of a request by a constable, before the expiration of the period aforesaid at any police station which is within the area of the council and is nominated by the driver when the request is made</p>
<p>Section 54 Wearing of drivers badges</p>	<p>A driver shall at all times when acting in accordance with a drivers licence granted to him wear such badge in such position and manner as to be plainly and distinctly visible</p>
<p>Section 56 Operators of private hire vehicles</p>	<p>(i) Every contract for the hire of a private hire vehicle licensed under this Act shall be deemed to be made with the operator who accepted the booking for that vehicle whether or not he himself provided the vehicle</p>

	(ii) Every person to whom a licence in force under this Act shall keep a record in such form as the council may by condition attach to the grant of the licence, and enter details in the record before the commencement of each journey, particulars of every booking of a private hire vehicle invited or accepted by him whether by accepting the same from the hirer or at the request of another operator. The operator shall produce such record on request to any authorised officer of the council or constable for inspection. (iii) Any person who has a licence under this Act shall enter details in the record the particulars of any private hire vehicle operated by him and shall produce the same on request to any authorised officer of the council or constable for inspection (iv) A person to whom a licence has been granted under this Act shall produce the licence on request to any authorised officer of the council or constable for inspection
Section 57 power to require applicants to submit information	Any applicant for a licence under the Act of 1847 and this part of this Act shall submit to a district council such information as they may reasonably consider necessary to enable them to determine whether the licence should be granted and whether conditions should be attached to any licence
Section 58 Return of identity plate or disc on revocation or expiry of licence	(a) On the revocation or expiry of a vehicle licence in relation to a hackney carriage or private hire vehicle (b) The suspension of a licence under section 68 of this Act The proprietor of the hackney carriage or private hire vehicle shall, on request of the district council issuing the licence, return within 7 days to the council the plate or disc
Section 59 Qualifications for drivers of hackney carriages	A person must be authorised to drive a motor vehicle under Part III of the Road Traffic Acts for a minimum of twelve months prior to the application for a driver licence
Section 64 Fares for long journeys	A driver of a hackney carriage must not charge a fare for a journey ending outside the licensing district, greater than that agreed before the hiring was effected or that indicated on the taxi meter or fixed by the table of fares in force within the licensing district
Section 67 Hackney carriages used for private hire	No hackney carriage shall be used in the district under a contract or proposed contract for private hire except at a rate of fares or charges not greater than that fixed by the table of fares, and when any such hackney carriage is so used the fare or charge shall be calculated from the point in the district at which the hirer commences his journey
Section 69 Prolongation of journeys	No person being the driver of a hackney carriage or private hire vehicle licensed by a district council shall without reasonable excuse unnecessarily prolong, in distance or in time, the journey for which the hackney carriage or private hire vehicle has been hired
Section 71 taximeters	Any person who (a) tampers with any seal on any taximeter without lawful excuse; or (b) alters any taximeter with intent to mislead; or (c) knowingly causes or permits a vehicle of which he is the proprietor to be used in contravention of this section shall be guilty of an offence
Section 73 Obstruction of authorised officers	(1) Any person who (a) wilfully obstructs an authorised officer or constable; or (b) without reasonable excuse fails to comply with any requirements properly made to him by such officer or constable; or (c) without reasonable cause fails to give such officer or constable so acting any other assistance or information which he may reasonably require of such person for the purpose of the performance of his functions shall be guilty of an offence (2) If any person in giving any information to (1) makes any statement he knows to be false he shall be guilty of an offence