

Tunbridge Wells Borough Council

# **Hackney Carriage and Private Hire Licensing Policy**

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2020 - 2025



# CONTENTS

Policy Justification	4
Introduction	4
Review of Policy and Procedures	5
Hackney Carriage/Private Hire Driver Licence – New and Renewal applications	7
Hackney Carriage/Private Hire Vehicle Licences	15
Private Hire Operators Licence	24
Penalty Points Scheme	27
Taxi Ranks	28
Plying for Hire	29
Taxi/Private Hire Liaison Meetings	29
Complaints Procedure	29
Departure from Policy	29
Amendments to the Policy	30

# Appendices

1.	Statement of Policy about Cautions and Convictions. National Register of Taxi Licence Refusals and Revocations (NR3)	31
2.	Vehicle Specification	42
3.	Additional Conditions for Licensing Stretched Limousines	58
4.	Application Procedure	61
5.	Assessing applicants and existing drivers for a hackney carriage/private hire vehicle driver licence in accordance with C1 standard	65
6.	Code of Good Conduct for Licensed Drivers	67
7.	Dress Code for Licensed Drivers	70
8.	Private Hire Driver's Licence Conditions	71
9.	Private Hire Operator's Licence Conditions	77
10.	Penalty Points System	82
11.	Hackney Carriage and Private Hire Enforcement Policy and Practice	94
12.	Special Event Policy	100
13.	Displaying Licence and Private Hire 'Pre-Book' Sticker Exemption Requirements	101
14.	National Register of Refusals and Revocations (NR3) Policy	102
15.	Re-Allocation of Hackney Carriage Proprietors Licence Process	108
16.	Replacement Vehicle Policy	110
17.	Location of Taxi Bays	112
18.	Hackney carriage and private hire vehicles - wheelchairs and assistance dogs' policy	114

# 1. Policy Justification

The aim of the local authority licensing of Hackney Carriage and Private Hire trade is to protect the public by ensuring that all drivers, vehicles and operators are licensed in accordance with the Statutory Provisions and the Council's Policy. However, Tunbridge Wells Borough Council is aware that the public should have reasonable access to Hackney Carriage (HC) and Private Hire Vehicle (PHV) services which are integral to Local Transport Provisions.

Licensing requirements which are unduly stringent may restrict the supply of HC and PHV services, by increasing the cost of operation or restricting entry to the trade. Furthermore, the Council recognises that an unduly restrictive approach may be detrimental to the public interest and could have adverse safety implications.

## 2. Introduction

The Licensing Authority at Tunbridge Wells Borough Council ("the Council") is responsible for dealing with all applications for hackney carriage and private hire licences, including drivers, vehicles and private hire operators. The Authority also deals with complaints, compliance and enforcement in relation to hackney carriage and private hire matters.

The Licensing of hackney carriage and private hire drivers, vehicles and operators aims to secure the following objectives:

- All licensed drivers and operators are "fit and proper" persons in accordance with the statutory legislation;
- All vehicles licensed by the Council are safe, comfortable, properly insured and available where and when required;
- To encourage the use of environmental friendly vehicles; and
- To encourage the use of vehicles that are accessible to persons who have disabilities.

The Authority will ensure that these aims are met by setting minimum requirements for the licensing of drivers, vehicles and operators. These requirements include:

- Up to three yearly licensing of drivers, including medical checks, criminal record clearance, an appropriate level of driving ability and a sound knowledge of the area;
- DVLA checks of all drivers at first application and at renewal;
- A five yearly licence for private hire operators, subject to the power to grant a licence for a shorter period of time should this be appropriate in the circumstances;

- Routine inspections of records maintained by private hire operators;
- Annual licensing of vehicles will include inspections by authorised officers which will incorporate mechanical vehicle testing and confirmation of appropriate documentation such as insurance certificates;
- Investigation of complaints and enforcement of legislation and licence conditions with appropriate action taken in accordance with the Council's [Enforcement Policy Statement and the Licensing Compliance and Enforcement Policy](#)
- Ongoing training and development of the Council's Licensing staff;
- Provision of information to the hackney and private hire trades with members of the public through press release and publications, the Council's website and attendance at relevant forums.

## 3. Review of Policy and Procedures

### 3.1. Legislation

In undertaking its licensing function, this Authority will have particular regard for:

- Town Police Clauses Act 1847 and 1889;
- Local Government (Miscellaneous Provisions) Act 1976;
- Transport Act 1985 and 2000;
- Crime and Disorder Act 1998;
- Environmental Protection Act 1990;
- Equality Act 2010;
- Road Traffic Act;
- Humans Rights Act 1998;
- Regulators Code;
- Statutory Taxi and Private Hire Vehicles Standards;
- DfT's Taxi and Private Hire Vehicle Licensing – Best Practice Guidance (March 2010);
- The Motor Vehicles (Wearing of Seat Belts) regulations 1993.

### 3.2. Taxi and Private Hire Licensing: Best Practice Guidance – March 2010

The Department for Transport (DfT) has national responsibility for hackney carriage and private hire legislation in England and Wales. Following widespread consultation, the DfT has produced Best Practice Guidance for licensing authorities which sets out standards which can be considered good practice in this area of licensing, although it also recognises that individual licensing authorities should produce their own policies in relation to specific licensing matters.

This Guidance has been taken into consideration in preparing this policy. Regard has also been given to the Licensing Partnership and this has been seen as an opportunity to have some consistency across the three authorities. The Licensing Partnership includes Maidstone Borough Council, Sevenoaks District Council and Tunbridge Wells Borough Council. This policy relates to Tunbridge Wells Borough Council

### **3.3. Consultation**

3.3.1. The Council is keen to hear the views of persons who may be affected by this policy and has identified people and organisations that may be interested in commenting on this document. The Council has consulted widely and invited comments from any interested party in particular those listed below:

- Representatives of Tunbridge Wells licensed hackney carriage and private hire drivers;
- Representatives of the Borough's Operators;
- All Borough Councillors;
- Town and Parish Councillors;
- Neighbouring Authorities;
- Tunbridge Wells Community Safety Unit (CSU);
- Access Group;
- Members of the public through the Council's Website;
- Kent Police;

3.3.2. The Policy and associated documentation are available for inspection on our [Licencing Policies page](#).

3.3.3. The Policy will remain in existence for a period of five years, during which time it shall be kept under review and revised as appropriate or after any significant legislative change.

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

## **4. Online Forms**

4.1. The Licensing Partnership has online forms to facilitate new and renewal applications. The Authority is committed to keeping the cost of providing the licensing service down and online forms assist with this aim.

4.2. All new applications will require an applicant to meet with an officer to complete the application process. At this meeting all original documents are required to be presented.

4.3. On driver renewal applications applicants are required to sign up to the DBS update service.

4.4. The Authority will accept scanned accompanying documents or photographic images with online renewal applications. However, if submitted images do not match with the electronic images already held by the authority, we reserve the right to require the original documentation to be presented to the Licensing Authority.

## 5. Hackney Carriage/Private Hire Driver Licence – New and Renewal Applications

5.1. Sections 51 and 59 of the Local Government (Miscellaneous Provisions) Act 1976 require that a district council shall not grant a driver's licence to drive a hackney carriage or private hire vehicle unless they are satisfied that an applicant is a fit and proper person

5.2. In order for the Authority to establish whether an applicant is 'fit and proper' the applicant must provide evidence of:

- Honesty and trustworthiness;
- Driving standard;
- Medical fitness;
- Criminal history;
- Relevant knowledge of the Borough; and
- Understanding of English (spoken, written and reading)

5.3. All applicants are required to read the Council's policy regarding Convictions and Cautions located at Appendix 1 before considering whether to apply for a Hackney Carriage/Private Hire driver's licence.

- **Application forms** must be completed in full. Any incomplete forms will be returned to the applicant as invalid. An email address provided by an applicant or licensed driver is deemed to be valid for all email correspondence sent by officers and can only be updated by written notification of a change of email address. Applications will only be accepted as valid if they include and/or are accompanied by the following: Application form provided by the Council, complete in its entirety and signed by the applicant.
- **The appropriate fee.** The current fees are available from the licensing department or on our [licensing fees webpage](#).
- **The applicants' original DVLA driving licence.** Applicants must have held a full DVLA or acceptable alternative (Gov website details) licence for at least one year (para 5.4) for a new application;

- **A completed medical certificate**
- **Driving Standard Assessment (DSA)** practical taxi test and wheelchair test for all new hackney carriage/private hire drivers, delivered by an external company –
  - **TGT training**  
[TG Training website](#)
  - **Blue Lamp Trust**  
[Blue Lamp Trust website](#)
  - **Green Penny**  
[Green Penny website](#)
- Evidence of passing the Authority’s online knowledge test (Appendix 4, para 3); (new applicants only).
- One recently taken, colour, passport sized photograph of the applicant (no sunglasses or hats. Hats may only be worn for religious beliefs while showing full facial features).
- Applicants must obtain and submit to the Authority the 8-digit driving licence ‘Check Code’ provided by the DVLA. The ‘Check Code’ is only valid for 21 days from date of issue.
- Application for a Disclosure and Barring Service Enhanced Check (DBS) completed by the applicant with accompanying identification or a current valid disclosure certificate completed within one month and obtained via an approved body which will allow an update service check to be performed (para 6.). This must include a check for ‘adult and child workforce’.

## 6. Applicants must register their DBS certificate

Applicants must register their DBS certificate with the online checking service so that the authority is able to undertake a check on a driver every six months in addition to ‘spot’ checks, while they are licensed. Applicants can only register their DBS certificate with this service within 28 days of the date that their certificate was issued. [DBS Update Service website](#). Evidence of this (unique reference number) MUST be provided to the Authority within 7 days of receipt.

6.1. Drivers that do not subscribe to the Update service will still be subject to a check every six months.

6.2. For all applicants who have lived in the United Kingdom for less than five years continuously, a certificate of good conduct from the appropriate Embassy is required (new applicants only);



- 6.3. For those applicants not holding a – UK- passport, evidence will need to be provided of the applicant’s right to work in the United Kingdom, which will include a relevant VISA or letter from the appropriate Embassy/Authority. The Licensing Authority may also contact the Home Office to carry out immigration checks when it is appropriate to do so.
- 6.4. All applicants must provide **original** documentary evidence confirming their right to live and work in the UK. Any licence granted to drivers whose leave to remain in the UK is time limited, will only be valid for the period which they are entitled to work in the UK. In order for the licence to be extended, drivers must produce further evidence to prove that they have the right to work in the UK;
- 6.5. Two items confirming the applicants address for new applicants;
- 6.6. Documentary proof of their National Insurance Number
- 6.7. Additional EQUO online test for new drivers in safeguarding awareness, disability awareness and Gangs & County Lines awareness training.

All existing drivers will be required to undertake the training identified in 6.6 prior to the next renewal of their driving licence. Once passed this does not apply to future renewals. This element of the policy was introduced from January 2021

- 6.8. The licensing authority provides information to the National Register of Taxi License Refusals and Revocations (NR3), a mechanism for licensing authorities to share details of individuals who have had a hackney carriage or Private Hire drivers license revoked, or an application for one refused – see Appendix 14

## 7. Fee

- 7.1. All applications must be accompanied by the appropriate fee as prescribed from time to time by the Council. Licensing fees are reviewed on an annual basis and approved by the Council.
- 7.2. Any outstanding application older than 12 months will be destroyed. Should the applicant wish to pursue the application after the 12 months, a new application will need to be submitted with a fee together with a new Disclosure and Barring Service (DBS) and medical certificate.

## 8. Driving Standards

- 8.1. It is a statutory requirement that a licence will not be issued to any person, who at the time of the application has not held a full appropriate driving licence for a continuous period of one year immediately prior to the date of receipt of a valid application by the Council.
- 8.2. Driving licences issued by EU/EEA States and Countries detailed in the Driving Licence (Exchangeable Licences) Orders are also permitted to count towards the

one year's period qualification requirement for the grant of a hackney carriage/private hire driver's licence.

- 8.3. In order to establish that an applicant has reached an acceptable driving standard, new applicants will also be required to have successfully undertaken a driving standards practical taxi test delivered by one of the Council's nominated providers set out at 5.3 (DSA) above for contact details.
- 8.4. Existing drivers may also be required to undertake this test where serious concerns are raised about the standards of their driving.
- 8.5. All new applications for a driver's licence will be required to successfully complete a practical taxi test and wheelchair test without exception.
- 8.6. All Drivers of wheelchair accessible vehicles (WAV) must have undertaken the enhanced practical taxi test which includes the wheelchair exercise. Applicants will need to provide their own vehicle capable of undertaking a wheelchair exercise. If a driver changes his vehicle to a wheelchair accessible one, then they must undertake the element that includes the wheelchair exercise.
- 8.7. A first time driver applicant must demonstrate by means of an online knowledge test, an acceptable knowledge of places, roads and routes within the Council's area. Drivers are required to successfully complete the knowledge test prior to them submitting their driver application.

## 9. Age and Experience

- 9.1. A licence will not be granted to anyone who is not over 21 years of age or has not held an appropriate full driving licence issued for a period of at least twelve months immediately prior to the application.
- 9.2. Tunbridge Wells Borough Council does not consider it necessary to set a maximum age limit for drivers, provided that regular medical checks are completed.
- 9.3. An applicant who meets the licensing requirements by virtue of an acceptable Designated Country non-UK driving licence (Driving Licence (Exchangeable Licences) Orders) must:

Obtain a full UK driving licence within twelve months of the issue of the hackney carriage/private hire driver's licence.

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

For more information please see the [GOV.UK website](https://www.gov.uk).

9.4. An applicant who holds a driving licence from a country other than those listed in the Driving Licence (Exchangeable Licences) Orders or an EU/EEA country MUST hold a full UK driving licence for a period of 12 months before applying to become a taxi driver.

## 10. Medical Fitness

- 10.1. There is a general recognition that it is appropriate to HC/PHV drivers to have more stringent medical standards than those applicable to normal car drivers because:
- they carry members of the public who have expectations of a safe journey;
  - they are on the road for longer hours than most drivers; and
  - they may have to assist disabled passengers and handle luggage
- 10.2. Tunbridge Wells Borough Council supports the widely held view that Group 2 Medical Standards should also be applied by local authorities to HC/PHV drivers.
- 10.3. A Group 2 Medical Standards certificate signed by an applicant's own general practitioner (GP) registered or practising in the United Kingdom or in any other EU/EEA country will be required from all applicants. Holders of current Passenger Service Vehicle (PSV), Heavy Goods Vehicle Licences (HGV), and/or 'LGV' (Large Goods Vehicle), where the holder is able to produce proof of a current medical examination, less than 12 months old will not be required to undergo a further medical.
- 10.4. **All** applicants will be required to obtain a Group 2 Medical Standards Certificate signed by the **applicants own** general practitioner (GP). This is due to the fact that the applicant's own doctor is likely to have a greater awareness of the applicants' medical history. The Council to receive a copy of the signed and completed medical certificate within one calendar month of it having been completed.
- 10.5. Once licensed, a new medical will be required to be undertaken at renewal (every three years) or annually on the anniversary of the grant of the licence once the driver reaches the age of 65 years.
- 10.6. The Group 2 Medical Standards now include the licensing of drivers with insulin treated diabetes, subject to them meeting the criteria at Appendix 5.
- 10.7. Should concerns arise regarding the health of a driver licensed by this authority, the Council at any time may request further information or a further medical examination to be carried out and submitted. The Council reserves the right to revoke or suspend a licence if requested information is not submitted within four weeks of the request and a satisfactory explanation is not given for the failure to provide such information, or where the information provided raises further

concerns as to the applicants fitness to carry out his/her duties as a licensed driver.

- 10.8. If a driver suffers from a medical condition or injury it could affect their ability to drive. The DVLA publishes a [full A-Z of conditions](#) online so drivers can check which need to be reported.

Notifiable medical conditions include those which sometimes may be 'invisible' at first, such as anxiety, depression and post-traumatic stress disorder.

## 11. Criminal Record

- 11.1. Prior to consideration of any application, the Authority will obtain from the applicant a Disclosure & Barring Service (DBS) Enhanced Certificate in respect of the applicant, to be assessed in accordance with the Council's policy on convictions and cautions. It is recognised that many vehicles are used for the carriage of children and vulnerable persons and the Enhanced Disclosure is most appropriate.
- 11.2. Existing drivers will be required to submit an Enhanced Disclosure Certificate every three years at renewal, until such time as they are signed up to the online service, which will enable officers from the Licensing department to check directly with the DBS. The Council reserves the right to require the production of a new Enhanced Disclosure Certificate in cases where evidence indicates that the driver may have received a Caution or been convicted of an offence in the interim period.
- 11.3. Prior to consideration of any new applicant, overseas applicants who have lived in the United Kingdom for a continuous period of less than five years are required to provide a Certificate of Good Conduct from their previous country or countries of residence (within the previous five years) in addition to an Enhanced Certificate from the DBS.
- 11.4. A licence will generally not be granted to any applicant who does not comply with the minimum requirements as set out in the Council's Statement of Policy about the Relevance of Convictions and Cautions (Appendix 1). Where several minor offences have been committed the Council will take into consideration any pattern of offending. The Council can also take into consideration spent convictions and cautions when determining an application for a driver's licence.
- 11.5. A licence may be suspended or revoked pending the outcome of any investigation or trial where an existing driver is found to be awaiting trial or has been charged with a serious crime relating to:
- driving or being in charge of a vehicle whilst under the influence of drink or drugs

- a drug related offence
- indecent exposure, indecent assault or any of the more serious sexual offences
- previous bodily harm, wounding or assault; or
- dishonesty

11.6. A licence may be suspended or revoked where information received raises grave doubts as to the fitness of a driver, regardless of whether criminal charges are brought.

11.7. Any application from a new applicant charged with a serious offence as outlined above will not be determined until the outcome of that matter has been determined.

11.8. Where an existing driver commits an offence and/or breaches the licence conditions/byelaws, the nature and number of incidents will be taken into consideration when considering if the driver continues to be considered “fit and proper”.

11.9. Complaints in relation to existing drivers will generally be held on file and taken into consideration for a period of three years from receipt. Although where a further warning is issued during this period, the original warning will be kept on file from the date of the most recent warning. Where a licence is revoked for persistent breach of policy or licence conditions a period of three to five years should generally elapse before a further application is favourably considered.

11.10. A licence holder or applicant shall notify the Authority within **seven** days of any charges/convictions/cautions (including motoring offences) imposed during the term of their current licence or application.

## 12. Driver Knowledge Test

In order to maintain the high standards that the Council expects of its licensed hackney carriage drivers operating within the Borough, all potential new drivers are required to pass a knowledge and Equality Online (EQUO) test at Appendix 4.

## 13. Renewal of driver licences

13.1. It is responsibility of the driver to ensure that their licence is renewed prior to the expiry of their current licence.

13.2. Any licence that is not renewed by the expiry date will not be renewed and a new application in full will be required. A Driving Standards Assessment certificate will also need to be provided.

13.3. Where a licence holder will not be available at the time of renewal, for example due to an extended holiday, then they may apply in writing to the Licensing Officer, prior to the expiry date, explaining their circumstances and request a

waiver. If granted, this waiver will allow the licence holder to renew their licence after the expiry date or depending on the circumstances the licence can be renewed early. The date of renewal of the licence will start from the date after the expiry of the previous licence.

13.4. In any case, following expiry of a licence, the driver will not be considered licensed and will not be permitted to drive a licensed vehicle until such time as the licence has been approved and a new licence has been issued.

13.5. The Authority will endeavour to issue reminder letters at least four weeks prior to the expiry of a licence, although there is no statutory duty for the Authority to do so and the responsibility ultimately lies with the licence holder to ensure that completed applications for renewal are submitted on time

## **14. Online test for existing drivers**

14.1. Online test for existing drivers relating to safeguarding and disability awareness as stated at 6.6 above.

14.2. At each renewal application drivers must produce the following:

- An 8 digit driving licence 'Check Code' from the DVLA. The 'Check Code' is only valid for 21 days from date of issue.
- Medical from drivers own GP (the licence can be issued subject to a satisfactory medical being received)
- Code for DBS or complete a new application for an Enhanced Disclosure

## **15. Surrender/Suspension/Revocation of Licence or Failure to Complete Application**

15.1. In the event of the surrender of a driver's licence before its expiry or failure to complete the application process, there shall be no refund of the licence fee.

15.2. In the event of a driver's licence being suspended or revoked there shall be no refund of the licence fee.

## **16. Drivers Dress Code**

16.1. Tunbridge Wells Borough Council is committed to encouraging the professional image of the hackney carriage and private hire trade. In order to raise and maintain the profile of the licensed trade, the Council considers that drivers should conform to a minimum standard of dress, as set out in Appendix 7. The

Authority does not impose such standards by way of conditions to any licence, however, it is expected that such standards will be maintained at all times.

## 17. Right of Appeal

- 17.1. Where the Licensing Officer is not satisfied that the applicant should be granted a licence, the matter must be referred to the Licensing Sub-Committee. The applicant will be advised of the date, time and venue of the meeting at which the application will be considered. See Appendix 4.
- 17.2. Unsuccessful applicants will be informed of their right of appeal against the decision to the Magistrates Court within twenty one days of receipt of the formal notice of refusal of the application. See Appendix 4.

## 18. Duration of Drivers Licences

- 18.1. A new or renewal of a hackney carriage/ private hire driver's dual licence shall be valid for a standard term of three years (unless for administrative reasons, a shorter period is appropriate).

## 19. Hackney Carriage/Private Hire Vehicle Licences

- 19.1. Section 47(2) of the Local Government (Miscellaneous Provisions) Act 1976 states *'a district council may require any hackney carriage licenced by them under the Act of 1847 to be of such design or appearance or bear such distinguishing marks as shall clearly identify it as a hackney carriage.'* See Appendix 2.

## 20. Livery

- 20.1. Hackney carriage vehicles must be white (unless the vehicle is a London Style vehicle).
- 20.2. Private hire vehicles can be any colour apart from white.

## 21. Quantity Restrictions of Hackney Carriages

- 21.1. This Authority limits the number of hackney carriages that they licence.
- 21.2. The grant of a hackney carriage licence may be refused, for the purpose of limiting the number of licensed hackney carriages, if the Licensing Authority is satisfied that there is no significant unmet demand for the services of hackney carriages.

- 21.3. In the event of a challenge to a decision to refuse a licence, it would, therefore, have to be established that the Licensing Authority had reasonably been satisfied that there was no significant unmet demand.
- 21.4. If the 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. It is necessary for this to be carried out sufficiently frequently to be able to respond to any challenge to the satisfaction of a Court. An interval of three years is commonly regarded as the maximum reasonable period between surveys.
- 21.5. Once licensed a hackney carriage remains a hackney carriage until the licence expires, is suspended or revoked. A licensed vehicle can, subject to very limited exemptions, only ever be legally driven by a driver that holds the relevant hackney carriage/private hire drivers' licence and appropriate insurance.
- 21.6. The last demand survey (2019) identified that there is no current unmet demand for hackney carriages within the Borough. On this basis it was determined that the policy of Tunbridge Wells Borough Council would continue to limit the number of hackney carriage proprietors' licences to 107.

## **22. Quantity Restrictions of Private Hire Vehicles**

- 22.1. No powers exist for licensing authorities to limit the number of private hire vehicles that they licence.
- 22.2. Once licensed a private hire vehicle remains a private hire vehicle until the licence expires, is suspended or revoked. A licensed vehicle can, subject to very limited exemptions, only ever be legally driven by a driver that holds the relevant hackney carriage/private hire drivers' licence and appropriate insurance.

## **23. Environmental Considerations**

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 forms). They suggest that authorities may, for example, wish to consider setting vehicle emission standards, perhaps by promoting clearer fuels.

It is considered that efforts should be made, through the licensing policy to improve, as far as possible, the efficiency of vehicles licensed in the Borough by, in particular reducing the levels of CO<sub>2</sub> emitted from petrol vehicles and the equivalent from diesel. There's movement towards the use of alternative fuels and in many areas LPG conversions to vehicles are perfectly acceptable and encouraged. Appendix 2 makes it clear that LPG conversions to vehicles are acceptable to the Council, this will, however be dependent on supplies of such fuel being made readily available. It may



also be the case that the installation of storage tanks into vehicles may affect the ability to carry luggage.

Clearly emissions from hackney carriages and private hire vehicles could be reduced further by encouraging better maintenance of vehicles and by switching off engines when stationary particularly at hackney carriage ranks. Efforts should be made as far as possible to reduce the pollution levels in the Borough, therefore penalty points will be issued where evidence is provided to the Licensing Team by authorised officers of the Council for Engine Idling.

In view of the above, 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 vehicles.

To help consider the environmental impact, any petrol electric vehicle with an engine size under 1400cc will be considered to be licensed on a case by case basis. Tunbridge Wells Borough Council suggest that, in order to promote a greener environment, any vehicle that promotes cleaner fuel emissions may be entitled to pay a reduce fee at the time of having the vehicle tested by one of the Council's nominated garages.

This Authority encourages the use of electric vehicles – a double rapid charger is located at Mount Pleasant Road.

## **24. Taximeters**

- 24.1. The Authority requires every vehicle licensed as a hackney carriage to be fitted with a taximeter. The Taximeter shall be of a type which is EU approved or specifically authorised by the Council.
- 24.2. A private hire vehicle may be fitted with a taximeter. If a taximeter is fitted it shall be of a type which is Measuring Instruments Regulations 2016 or subsequent legislation approved or specially authorised by the Council.

## **25. Roof Signs**

- 25.1. The Authority requires all hackney carriage vehicles to be fitted with working roof-mounted signs. If the illuminated roof lights have red in them, they must be fitted so that the red light is visible from the rear. If the vehicle is available for hire, the roof light must be illuminated

## **26. Applications for a Vehicle Licence**

- 26.1. All applications submitted for the initial grant of a licence are advised to apply at least 10 working days before the licence is required to allow time for the vehicle to be tested and the application to be processed.

- 26.2. Application forms must be completed in full, accompanied by all required documents and signed by the applicant and the operator where relevant. Any incomplete forms will be deemed invalid and returned immediately to the applicant. An email address provided by an applicant or licensed driver is deemed to be valid for all email correspondence sent by officers, and can only be updated by written notification or a change of email address.
- 26.3. An annual basic disclosure is required from the Disclosure and Barring Service (DBS) for vehicle proprietors who are not drivers.
- 26.4. Applications will only be accepted as valid if they include and/or are accompanied by the following:

- Original vehicle registration document showing the applicant to be the registered keeper either wholly or jointly with any other person(s) hereinafter described as proprietor(s) thereof, or other acceptable proof of ownership (the V5c New Keeper Supplement completed by the intended new proprietor, or an official receipt from a registered company in the case of newly manufactured vehicles) **and** a Bill of Sale.
- Application form provided by the Council, completed in its entirety and signed by the proprietor and operator where relevant;
- When a renewal application is made online, the Authority will accept scanned documentation or a photograph of the documentation;
- Original documentation will only be required for new vehicles, or if there is a discrepancy between the copy retained on the Council's system and the supporting documentation provided to support the online renewal application;
- Certificate of insurance for the vehicle which covers the activity required (i.e. public or private hire) and which is valid on the date that the licence is due to come into force. With online applications, the Authority will accept emails from the insurance company, this must be sent to [licensing@sevenoaks.gov.uk](mailto:licensing@sevenoaks.gov.uk) however, if a cover note is provided, licence holders/proprietors will be required to produce a further insurance certificate on or before the expiry of the cover note.

For the avoidance of doubt, proprietors are required to provide evidence of continuous insurance cover throughout the period of the licence. Failure to provide evidence of insurance will result in the vehicle licence being suspended

## 27. Licence Fee

- 27.1. All applications must be accompanied by the appropriate fee as prescribed by the Council. The current scale of fees is available from the Council or at our [Taxi Licence Fees page](#).
- 27.2. Licensing fees are reviewed on an annual basis and adopted by the Council following advertisement by a Notice in a local newspaper. The Notice will also be displayed at the Council offices to allow for any comments to be made.
- 27.3. In the event of the surrender of a vehicle licence before its expiry no refund will be made.
- 27.4. In the event of the vehicle is no longer fit for use and a second test is not undertaken, the appropriate portion of the fee may be refunded.

## 28. Insurance

- 28.1. All hackney carriage and private hire vehicles must be insured for public or private hire and reward, such insurance to be fully comprehensive cover.
- 28.2. The Council considers vehicle insurance to be a high priority, and therefore requires all proprietors to provide evidence of continuous insurance cover throughout the period of the licence. A copy of this must be retained in the vehicle at all times and available for inspection on request. Failure to provide evidence of insurance will result in the vehicle licence being suspended.

## 29. Security/CCTV

- 29.1. The hackney carriage and private hire trade provides a valuable public service, especially late at night when other forms of public transport are no longer available. Security for drivers and passengers is of paramount importance. CCTV cameras can be a valuable deterrent as well as protecting the driver from unjustified complaints.
- 29.2. The hackney carriage and private hire vehicle trade is strongly encouraged to consider the installation of CCTV cameras in their vehicles on a voluntary basis and it will then be incumbent upon the operator to handle relevant data gathered in an appropriate and secure manner. For information and guidance on data protection, see [The Information Commissioners' Office \(ICO\) website](#).
- 29.3. The hackney carriage and private hire trade are also encouraged to build good links with the local police force, including participation in any Crime and Disorder Reduction Partnerships.

## 30. Testing of Vehicles

- 30.1. In addition to the MOT testing requirements, the vehicle must also be mechanically tested and inspected by the Council's nominated garage. This process is referred to as acquiring a "Certificate of Compliance" (Schedule 6 – Inspection Check List). When required to produce an MOT pass certificate, a "Certificate of Compliance" pass certificate must also be provided by the garage.
- 30.2. All vehicle licence applications/renewals must be accompanied by an original "Certificate of Compliance" (Schedule 6 – Inspection Check List) issued by the Council's nominated garage.
- 30.3. The licence of any vehicle which fails its inspection requirements will be automatically suspended until such time as the vehicle has been re-examined by the same testing station and the necessary pass certificates obtained.**
- 30.4. The Authority may undertake its own programme of inspections between formal MOT tests, where an Officer is unsure as to a vehicle's compliance. The vehicle will be referred to the Council's nominated testing station for a formal assessment. Where the testing requirements are not met, the Officer may either agree a period of time for rectification and re-inspection, or suspend the vehicle until rectification and re-inspection has occurred. The test will be at the Proprietors expense.
- 30.5. Where an application for a vehicle renewal is made after the expiry date of the licence, the application will be considered as a new application and any age restrictions will be applied.
- 30.6. Where a licence holder will not be available at the time of expiry, for example due to an extended holiday, then they may apply in writing to the Licensing Officer, prior to the expiry date, explaining their circumstances and request a waiver. If granted, this waiver will allow the licence holder to renew their licence after the expiry date or depending on the circumstances the licence can be renewed early. The date of renewal of the licence will start from the date after the expiry of the previous licence.
- 30.7. Any vehicle failing its compliance/inspection test will be required to undertake a "re-test" with the same garage and pass a further compliance/inspection test before it can be licensed, or in the case of an existing licensed vehicle, before it can continue to be used as a licensed vehicle. The proprietor is responsible for the cost of a "re-test" and this arrangement is between the proprietor and the garage.
- 30.8. The Authority may suspend a vehicle licence if it's not presented for its interim test (six month) by the due date.

## 31. Vehicle Testing Stations

- Matfield MOT Centre, Gedges Hill, Matfield, Kent TN12 7EA – Telephone 01892 723123
- Tunbridge Wells MOT Centre, North Farm Road, Tunbridge Wells, Kent TN2 3DP – Telephone 01892 677747
- The Choice Garage LTD, 12, 2 Kings Standing Way, Tunbridge Wells, TN2 3UP 01892 457 878

## 32. Returned/Expiry of Hackney Carriage Proprietors Licence and Re-Allocation

- 32.1. If a hackney carriage proprietor's licence (plate) is handed back to the Authority or expires and the vehicle is not renewed, and the proprietor does not take steps to inform the Authority of his intentions **within 28 days**, then the plate will be re-allocated in accordance with the process determined by the Licensing Committee, see Appendix15

## 33. Type of Vehicle

- 33.1. In order to assess vehicle suitability, the Authority will take into account passenger safety, comfort and the design of the vehicle.
- 33.2. In order to be considered suitable to be licensed as a hackney carriage/private hire, the vehicle must comply with the Vehicle Specification set out in Appendix 2 and pass the Authority's six-monthly vehicle compliance/inspection test.

## 34. Special Event Vehicle Policy

- 34.1. Any vehicle defined by this Policy as a Special Event Vehicle will be assessed on its own individual merits. Under certain circumstances, some or all of the requirements of this Policy may be waived – see Appendix 12.
- 34.2. Under circumstances where any requirement of this Policy is waived, written authority of exemption will be given by the Council. Unless such authority is given, all requirements of this Policy will apply.

## 35. Vehicles Powered by Liquid Petroleum Gas (LPG)

- 35.1. An applicant for a licence involving a vehicle that has been converted to run on LPG is required to produce, prior to a licence being issued, a certificate issued by

a member of the LPG Association confirming satisfactory installation, examination and testing of the vehicle in accordance with LPG Association Code of Practice. This certificate is required to ensure that the vehicle is considered safe by an approved inspector.

- 35.2. If an LPG conversion involves installation of a LPG fuel tank in a vehicle's boot space (and possible relocation of the spare wheel) it shall be a requirement that an amount of space shall remain free for the stowage of a reasonable amount of luggage and any spare wheel displaced as a result must be stowed in a location that does not impinge on the passenger carrying area of a vehicle. Alternatively, if the vehicle is fitted with 'run-flat' tyres, exemption from carrying a spare wheel will be granted, see Appendix 2.

## **36. Seating Capacity**

- 36.1. No vehicle capable of carrying more than eight passengers can be licensed by the Council;
- 36.2. It is the proprietor's and operator's responsibility to ensure they establish the number of passengers at the time of booking. This is particularly important for those proprietors and operators who choose to utilise smaller vehicles.

## **37. Interior Dimensions**

- 37.1. There must be sufficient space between the seat cushions and the lowest part of the roof to safely accommodate the driver and passengers in reasonable comfort. Eighty six centimetres is the minimum recommended.
- 37.2. There must be sufficient space between the front and back seats to safely accommodate the driver and passengers in reasonable comfort. There must be at least eighteen centimetres between the back of the front seat and the front of the next row of rear seats.

## **38. Tinted Windows**

- 38.1. All windows must meet the requirements as prescribed by the Road Vehicles (Construction and Use) Regulations

## **39. Accessibility Access**

- 39.1. The Council is committed to social inclusion and ensuring a wide variety of opportunities is available to those with mobility difficulties in order to enjoy a high quality of life. It fully supports the view of the Equality and Human Rights Commission that,

*“Making successful journeys is critical to the social inclusion of disabled people. Without the ability to travel, disabled people 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”.*

39.2. For this reason, the Council considers it important that people with disabilities have access to all forms of public transportation and will keep this section of the policy under review. See Appendix 18.

39.3. Drivers who for medical reasons are unable to accept wheelchair passengers or assistance dogs are able to apply to the Council for an exemption certificate. Such a certificate will only be issued on production of medical evidence from the driver’s own registered General Practitioner (GP). In relation to exemption from the carriage of assistance dogs a certificate will be issued for the nominated vehicle. Exemption certificates, which show the photograph of the driver and must be displayed in the vehicle at all times the driver is working. See Appendix 18.

If drivers fail to carry out the duties imposed upon them under the Equality Act 2010 without the appropriate exemptions will be subject to appropriate enforcement action by the Council

39.4. Signage is to be fixed to the outside of all vehicles to convey to passengers that the vehicle has been designed or adapted to carry a wheelchair.

39.5. It is arguable that different accessibility considerations should apply between hackney carriages and private hire vehicles in that hackney carriages can be hired in the street or at a rank, by the customer dealing directly with a driver. Private hire vehicles, however, can only be booked through an operator. It is considered particularly important that a person with a disability should be able to hire a hackney carriage with the minimum delay or inconvenience. The Council will, therefore, actively encourage the licensing of sufficient accessible vehicles and have regard to the requirements of the Equality Act 2010.

39.6. This authority maintains a list of wheelchair-accessible vehicles in accordance with section 167 of the Equality Act 2010; therefore in accordance with s165 additional conditions are imposed on the driver of the said vehicles.

## **40. Quantity Restrictions of Hackney Carriage Proprietor’s Licences**

40.1. Whilst the legislation prohibits the Council from setting a limit on the number of private hire vehicle licences it issues, quantity restrictions can be set to regulate the number of licensed hackney carriages.

40.2. In 2019 the Council commissioned an independent survey of hackney carriage usage. The study identified that there is no evidence of significant unmet demand

for hackney carriages in Tunbridge Wells. On this basis the Council has discretion in its taxi licensing policy and may either:

- continue to allow market forces to dictate the number of hackney carriage licences;
- issue any number of additional licences (plates) as it sees fit, either in one allocation or a series of allocations; or
- introduce a limit on the number of licences (plates).

40.3. It is the policy of Tunbridge Wells Borough Council to impose quantity restrictions on the number of hackney carriages in the Borough. This figure currently stands at **107**.

## **41. Private Hire Operators Licence**

41.1. The primary objective in licensing private hire operators is the safety of the public, both in the vehicles and at the operators' premises. The Council will grant a private hire operator licence provided the Council is satisfied that the applicant is a 'fit and proper' person to hold such a licence

41.2. In order for an operator to prove that they are 'fit and proper' they must provide evidence that they:

- are of good repute;
- have adequate arrangements for monitoring drivers, vehicles and the keeping of records; and
- are capable of ensuring that they and their staff and/or drivers abide by the rules.

41.3. All applicants for the initial grant of a licence should allow at least four weeks before the licence is required to enable the Authority to undertake the necessary vetting procedures, as detailed in this document.

41.4. Planning consent may be required and all applicants must ensure that they obtain all the correct and necessary permissions before trading.

41.5. Any application for renewal of a licence, which is not made before the expiry of the previous licence, will be treated as an application for a new licence and will incur an increased cost in comparison to a renewal.

41.6. Applications will only be accepted if they include the following:

- Application form completed in its entirety and signed by the applicant, along with all the information prescribed;
- Application for a Disclosure and Barring Service (DBS) Basic Check, which can be obtained from the DBS or Disclosure Scotland, completed by the applicant with accompanying identification or a current valid



disclosure certificate, completed within one month and obtained via an approved body, which will allow an update service check to be undertaken (note: update service cannot be used for a basic check); and the appropriate fee. The current fees are available online on our [Taxi Licence Fees page](#).

- **Original** documentary evidence confirming their right to live and work in the UK must be provided. Any licence granted to an Operator whose leave to remain in the UK is time limited, will only be valid for the period which they are entitled to work in the UK. In order for the licence to be extended, the Operator must produce further evidence to prove that they have the right to continue, prior to the lapse of the licence to work in the UK;
- Proof of Right to Work in the UK from the [list of acceptable documents](#).

## 42. Criminal Record Checks

- 42.1. Private Hire Vehicle Operators are not exceptions to the Rehabilitation of Offenders Act 1974. However private hire operators that are not licensed drivers cannot be required to produce an enhanced DBS disclosure. A Basic Disclosure from the DBS or Scottish Disclosure, or a Certificate of Good Conduct from the relevant Embassy for overseas applicants, is however considered appropriate in promoting the objective of public safety.
- 42.2. Before an application for a private hire operators licence will be considered, the applicant must provide a current (less than one month old) Basic DBS or Scottish Disclosure of Criminal Convictions (issued specifically for Tunbridge Wells Borough Council), or a Certificate of Good Conduct from the relevant Embassy in the case of an overseas applicant. Applicants that hold a current Drivers Licence with the Council will be exempt from this requirement.
- 42.3. Prior to consideration of any new application, overseas applicants who have lived in the United Kingdom for continuous period of less than five years are required to provide a Certificate of Good Conduct from their previous country or countries of residence (within the previous five years), in addition to a Basic Disclosure Certificate. A Certificate of Good Conduct authenticated by the relevant Embassy will satisfy this requirement.

## 43. Record Keeping

- 43.1. It is a requirement for operators to keep comprehensive records of each booking. All records maintained by the operator shall be kept for at least twelve months. See Appendix 9.

## 44. Licence Duration

44.1. The Department for Transport (DfT) considers that annual licence for 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.

44.2. The Council will therefore issue a successful applicant for a Private Hire Operators Licence with a five-year licence from the date of grant; subject to the power to grant a licence for a shorter period of time should this be appropriate in the circumstances.

## 45. Operation

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

All three licences must be issued by the same Licensing Authority:

- private hire operator's licence;
- private hire driver's licence; and
- private hire vehicle licence;

## 46. Conditions

46.1. The Council has power to impose such conditions on a private hire operator's licence as it considers reasonable, necessary and proportionate.

46.2. The Council considers the conditions detailed in Appendix 9 to be reasonable, necessary and proportionate. All private hire operators' licences will be issued with these conditions attached.

## 47. Insurance

47.1. 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.

47.2. 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.

47.3. The conditions applicable to Private Hire Operator's Licences, as detailed in Appendix 9 require that the operator produces an appropriate certificate of motor insurance which covers every private hire vehicle they operate as well as appropriate public liability insurance for their premises.

## **48. Address from which an Operator may operate**

- 48.1. Upon the grant of an operator's licence, the Council will specify on the licence the address from which the operator may operate. This address will be the address stated on the application form. The operator must notify the Council in writing of any change of home address within seven days of such a change taking place. Where an Operator requires a change of trading address, a 'New' application should be applied for as it is not possible to transfer a Private Hire Operators Licence.
- 48.2. The Council will not grant a licence to an operator whose premises are located outside the borough of Tunbridge Wells. This is to ensure that proper regulation and enforcement measures may be taken by the Council and is in no way intended to be a restraint of trade.
- 48.3. Operators based outside the borough granted a licence prior to the adoption of the previous addition of this policy will retain 'grandfather rights' providing the conditions of the licence are fully met. However this will only last for the duration of the existing trading address. If it is proposed to move to a new trading address then an application for a new operators licence must be submitted for an address within Tunbridge Wells Borough only.

## **49. Gaming Machines**

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

## **50. Penalty Points Scheme**

- 50.1. The Council has a responsibility to ensure that all drivers, owners and operators of vehicles adhere to basic minimum standards. The Council must do this in a reasonable, consistent and transparent manner.
- 50.2. These standards are defined by legislation and the Council's Hackney Carriage and Private Hire licensing Policy. Together they identify the Council's requirements of the trade and help to ensure consistent application of these standards by Council Officers.
- 50.3. In order to ensure compliance with the Council's Hackney Carriage and Private Hire Licensing Policy and to monitor licence holder's ability to fulfil the 'fit and proper' test, a penalty points system will be utilised.
- 50.4. The system, as described in Appendix 10 will serve both as an early warning system to licence holders who fail to meet the Council's required standards and as a consistent and transparent method of enforcement. It will be used to deal

with minor breaches or infringements of legislation, policy or unacceptable behaviour by those licensed by Tunbridge Wells Borough Council. Infringements incur penalty points in much the same way that points can be attached to a DLVA driving licence.

- 50.5. Penalty points remain on a licence for a period of two years from the date on which they are imposed. If a licence holder accumulates twelve or more penalty points within a period of twenty-four months, commencing from the date of imposition of the earliest 'live' penalty points on the licence, he/she will be referred to the Licensing Committee.
- 50.6. The Licensing Committee will follow the objectives of this Policy and have a range of sanctions available, including suspension or revocation of the licence.
- 50.7. The adoption of the Penalty Points System will not, however, compromise the Council's ability to enforce breaches of statute or the Council's Licensing Policy in the Courts should an offence necessitate such action.

## 51. Taxi Ranks

- 51.1. Appointed **Stands**.
- 51.2. The Council will periodically review the provision of hackney carriage stands within the Borough. In the event that there is evidence of the need to amend the existing provisions, a full consultation would be undertaken prior to any amendments.
- 51.3. Comments are welcomed from either the trade or the public on the need for additional bays in specific locations, the potential for re-locating or extending existing bays or indeed arguments for the removal of bays which no longer fulfil a useful purpose.
- 51.4. Current locations of Taxi Bays/Ranks within the Borough of Tunbridge Wells are detailed in Appendix 17.

## 52. Waiting on Stands

- 52.1. It is an offence for any person to cause or permit any vehicle other than a hackney carriage to wait on any rank or stand for hackney carriages. Drivers of hackney carriages may only wait on a rank or stand whilst plying for hire or waiting for a fare; drivers who park on a rank or stand and leave their vehicle unattended are committing an offence.
- 52.2. Whilst the law states it is an offence to leave a vehicle unattended on a hackney stand, discretion will be allowed for drivers leaving their vehicles in acceptable circumstances, for example 'comfort breaks'. Leaving a hackney carriage

unattended on a bay for any other circumstances, for example 'shopping', will be dealt with as an offence in accordance with this Policy.

## 53. Plying for Hire

53.1. For the avoidance of doubt, the Council does not have a by-law requiring hackney carriages to return to a taxi rank between fares. Hackney carriages can, therefore, park and be available for hire in any position where an ordinary member of the public can lawfully park. Hackney carriages are, however, subject to Road Traffic Regulations and should not wait in any position that obstructs the highway, the highway being both the road and the footway.

## 54. Taxi/Private Hire Liaison Meetings

54.1. Invites to the said meetings will be provided on request to the Licensing Department. The Council wishes to encourage discussions between the trade and the Licensing Authority, in order to promote a successful working relationship.

## 55. Complaints Procedure

- 55.1. All hackney carriage drivers and private hire companies in the Borough of Tunbridge Wells are licensed by the Council. It is important to us that every taxi driver is a 'fit and proper' person to be driving members of the public in their vehicle.
- 55.2. If complaints are made against a licensed driver by a customer then we will examine the complaint to establish whether it is justifiable. If it is justified and may indicate that the driver is not a 'fit and proper' person, it will be dealt with in accordance with the objectives of this Policy.
- 55.3. To progress the complaint it will be helpful if you have the licence number of the vehicle or the name of the driver, details of the incident and the names and contact details of any witnesses. You can submit this through the [complaints form on our website](#) and a licensing officer will follow this up with you.
- 55.4. There are some incidents that may also be against the law. For example racist behaviour or comments and any form of harassment. If you feel that what has happened to you constitutes unlawful discrimination or harassment then you should also report this to the Police.

## 56. Departure from Policy

56.1. There may be instances whereby the Council may need to consider applications outside the policy. Where it is necessary to depart substantially from this policy, clear and compelling reasons for doing so will be given. Any such decision may

be referred to the Head of Housing, Health and Environment, in conjunction with the Chair of the Licensing Committee and the Council's Legal Officer.

## **57. Amendments to the Policy**

57.1. Major changes to the Policy are made by the Licensing Committee.

57.2. Minor amendments/clarifications to the Policy can be made by the Head of Housing, Health and Environment in consultation with the Chair of the Licensing Committee and the Council's Legal Officer.

# Appendix 1: Statement of Policy relating to Cautions and Convictions

## 1. General

- 1.1. When submitting an application for a licence to drive a hackney carriage or private hire vehicle, you are required to declare any motoring offences and any non motoring convictions or cautions you may have in addition to completing a Disclosure and Barring Service Check. The information received will be treated in the strictest confidence.
- 1.2. The disclosure of a criminal record or other information will not debar you from gaining a licence unless the Authority considers that the conviction(s) renders you unsuitable. In making this decision the Authority will consider the nature of the offence, how long ago, and what age you were when it was committed, and any other factors which may be relevant. To facilitate a consistent approach the Licensing Authority has devised guidelines relating to the relevance of cautions and convictions.
- 1.3. Any applicant refused a drivers licence on the grounds that he is not a 'fit and proper' person to hold such a licence, has a right of appeal to the Magistrates Court.
- 1.4. If you would like to discuss what effect a conviction might have on your application, you may telephone the Licensing Officer, in confidence on 01892 554 034.
- 1.5. Notwithstanding the existence of this Policy, each application will be determined on its own merits. Where it is necessary for the Council to depart substantially from this Policy, clear and compelling reasons will be given for doing so. The purpose of this appendix is to formulate guidelines, consistent with national guidance, which detail the Council's current stance on the relevance of convictions and cautions in respect of applications for the grant of new licences, and the renewal of existing licences, for hackney carriage and private vehicle, driver and operator licences.
- 1.6. If a court has found an applicant guilty of an offence, that person cannot subsequently claim to the Council that they did not commit the offence. If they seek to do so, their representation will not be considered as this is entirely a matter for the courts. The applicant can, however, offer any mitigating circumstances relating to the offence that they wish the Council to consider.
- 1.7. For the purpose of this Policy, the acceptance of a fixed penalty notice will be treated as a conviction depending on the individual merits and mitigating circumstances of each case.

1.8. The legislation clearly states that the Council may grant a licence only if it is satisfied that the applicant is a 'fit and proper' person.

1.9. **The onus is on the applicant to demonstrate that they meet this requirement, not on the Council to demonstrate that the applicant does not.**

## 2. 'Fit and proper' person

2.1. In the absence of a judicially approved definition of "fit and proper", the Council use the test of:

*Would the Officer charged with the ability to grant a licence allow their son or daughter, spouse or partner, mother or father, grandson or granddaughter, or any other person for whom they care, to get into a licensed vehicle with the applicant alone?*

2.2. The wording of this test originates from Mr J T H Button BA, Solicitor, MIL, MClarb, a well-known and respected solicitor widely acknowledged as an authority in licensing legislation, particularly that of hackney carriages and private hire.

2.3. In order to further assist in understanding the interpretation of this definition, the Council will be considering issues that assist them in determining whether or not applicants are safe drivers with a good driving record, are mentally and physically fit, are honest, and that they are persons who would not take advantage of their position to abuse, assault or defraud members of the public.

2.4. It should be borne in mind that drivers may carry vulnerable members of the public such as elderly persons, unaccompanied children, disabled persons, persons who are incapacitated from alcohol, lone women and foreign visitors. Some examples of areas of concern that the Council will consider include, but are not limited to:

### **Honesty and trustworthiness**

2.5. Drivers often have knowledge that a customer is leaving a property empty; they have opportunities to defraud drunken, vulnerable or foreign persons; or they have other opportunities to abuse their position of trust. For example, all passengers would expect to be charged the correct fare of the journey and be given the correct change; they would expect any lost property to be handed over to the police; and they would expect confidentiality to be maintained between themselves and the driver.

### **Professionalism**

2.6. Drivers are often subject to unpleasant, abusive or dishonest behaviour, albeit from a small minority of passengers. Although this is clearly unacceptable behaviour by passengers, it does not excuse in any way aggressive or abusive conduct by drivers. Confrontation should be avoided and all disputes should be resolved through the formal legal channels. Under no circumstances must drivers take the law into their own hands.



### **Good and safe driving ability**

2.7. Passengers are paying for a service whereby they expect to reach their chosen destination promptly and safely. Drivers must be fully conversant with all road traffic legislation and this Policy, and drive in a professional, lawful and safe manner at all times.

### **Discrimination**

2.8. Where an applicant has a conviction or connected with the discrimination in any form, a licence will be not be granted until at least seven years has elapsed since the completion of any sentence imposed. Any existing licence holder convicted of an offence during the period of their current licence will be subject to the above policy relating to the relevance of convictions. In circumstances where a new applicant would normally have their application refused, an existing licence holder would normally have their licence revoked

### **Whistleblowing**

2.9. Any concerns about the conduct of another driver/proprietor or operator should be raised with a member of the Licensing team in the first instance and it may be investigated further.

## **3. Public Safeguarding and Child Sexual Exploitation**

3.1. The overriding consideration for the Council in its determination of applications is the promotion of the licensing objectives detailed within this policy, in particular the protection of public safety.

3.2. Child Sexual Exploitation (CSE) is a form of child abuse. It can involve sexual abuse, physical abuse and emotional abuse of children by adults. Licensed drivers, proprietors and operators provide a public service and have a duty of care to all passengers. They also have a moral and social responsibility to report concerns about someone who is vulnerable. Should a licenced driver, proprietor or operator have any concern about the vulnerability of a child they must report this immediately and call 101 and quote 'Operation Willow' or call the 'say something helpline' anonymously on 116 000.

***Should a licence holder fail to report a concern, they will be investigated and may have their licence revoked or suspended.***

## **4. History**

4.1. The Council may take into account an applicant's history as a licence holder with this, or any other, Council. In considering whether or not a person is 'fit and proper' the Council may consider such matters as the applicant's complaint history, their compliance with this Policy, their co-operation with Licensing Officer's requests, and any other reasonable matters.

## 5. Driving Offences

- 5.1. Hackney carriage and private hire drivers should provide a professional service to the public and must be aware of the safety of passengers and other road users at all times. Any traffic offence shows a lack of responsibility whilst driving either in terms of vehicle maintenance or the standard of driving.
- 5.2. Convictions or cautions for traffic offences will not automatically preclude any applicant from obtaining a licence, however, the number, nature and frequency of such offences will be considered. In some circumstances it may be appropriate to issue a licence together with a written warning as to future driving standards detailing the likely effect of further offences. Where there is a significant history of driving offences, an application is likely to be refused.

### 5.3. Using a hand-held device whilst driving

Where an applicant has a conviction for using a hand-held mobile telephone or a hand-held device whilst driving, a licence will not be granted until at least five years have elapsed since the conviction or completion of any sentence or driving ban imposed, whichever is the later. Any existing licence holder convicted of an offence during the period of their current licence will be subject to the above policy relating to the relevance of convictions. In circumstances where a new applicant would normally have their application refused, an existing licence holder would normally have their licence revoked

- 5.4. In cases of six penalty points or less on an applicant's DVLA driving licence, an application will be granted.
- 5.5. A licence granted under these circumstances is likely to be issued together with a verbal warning as to future driving standards detailing the likely effect of further offences.
- 5.6. Seven or more penalty points on a current DVLA driving licence.
- 5.7. In cases of seven penalty points or more on an applicant's DVLA driving licence, an application will be referred to the Licensing Sub-Committee for decision.

## 6. Major traffic offences

- 6.1. For the purposes of this section, major traffic offences includes, but is not limited to, dangerous driving, driving whilst disqualified, failure to stop after an accident, driving with no/invalid insurance, careless driving, and driving a vehicle with mechanical defects (such as those associated with brakes, steering, tyres, etc.).
- 6.2. The driving offences of causing death by dangerous or careless driving, due to their nature, will be considered by the Council to be violent offences and should be considered in conjunction with the section of this appendix relating to violent offences.

- 6.3. If the applicant has been convicted of more than one major traffic offence then a licence application will normally be refused until the applicant has completed a period of at least two years free from conviction. Where the combination of offences are considered to be of increased risk to the public, a period longer than two years may be substituted by the Council dependant on the extent of the risk to the public.
- 6.4. “Totting Up” under section 35 of the Road Traffic Offenders Act 1988.
- 6.5. Where an applicant has been disqualified from driving by the courts under the “totting up” procedure, the Council will normally refuse an application until there has been a period of twelve months free from convictions.
- 6.6. If the applicant has demonstrated to the court “exceptional hardship” and avoided a driving disqualification, applications will still normally be refused until there has been a period of twelve months free from convictions. The Council believe that the risk to the public is sufficient to maintain this consistent stance.

## **7. Motor Insurance Offences**

- 7.1. An isolated motor insurance offence will not automatically preclude an application from being granted, however the Council deem such offences to be serious, given the risk to the public.
- 7.2. More than one conviction for motor insurance offences will be considered to raise serious doubts as to an applicant’s suitability to hold a hackney carriage/private hire driver’s licence. Ordinarily in these circumstances, an application will be refused until such time as a period of three years has elapsed since the restoration of the applicant’s DVLA driving licence.

## **8. Failure to Declare Motoring Offences**

- 8.1. Where an applicant fails to disclose motoring offences on his application form, even if they have been declared on previous applications or are spent, the Council will normally deal with this by way of issuing of penalty points.
- 8.2. If, however, the Council determines that there was a premeditated intention to deceive, the matter will be considered as an offence of dishonesty and dealt with in accordance with that section of this Policy.

## **9. Drunkenness**

- 9.1. Separate consideration will be given to convictions for drunkenness whilst in charge of a vehicle as opposed to drunkenness whilst not in charge of a vehicle due to the differing degree of risk to the public.

### **In Charge of a Motor Vehicle:**

- 9.2. The Council considers driving or being in charge of a vehicle whilst under the influence of alcohol as a serious offence causing a high element of risk to the public.
- 9.3. An isolated incident will not automatically preclude an application from being granted. A single conviction for any alcohol-related driving offence will normally preclude an application from being granted for a period of five years from the restoration of the DVLA driving licence.
- 9.4. If there is a suggestion that the applicant is an alcoholic, a special medical examination is likely to be required before the application is considered. If the applicant is confirmed as an alcoholic, a period of three years must elapse after treatment is complete before an application can be considered.
- 9.5. More than one conviction for any alcohol-related driving offence represents an unacceptable risk to the public and an application will normally be refused.

#### **Not in Charge of a Motor Vehicle:**

- 9.6. An isolated conviction for drunkenness not associated with driving or being in charge of a motor vehicle will not automatically preclude the granting of an application.
- 9.7. Where there is an isolated conviction for disorder and/or drunkenness, a licence will normally be granted together with a verbal warning as to future driving standards detailing the likely effect of further offences.
- 9.8. More than two convictions for disorder and/or drunkenness will normally lead to refusal of an application until such time as a period of three years free of convictions has elapsed.

## **10. Drug Offences**

- 10.1. The Council considers all offences related to controlled substances as a serious risk to the public.
- 10.2. An applicant with a conviction of any Class A or Class B drug-related offence, including supplying or trafficking, will be required to show a period of five to ten years free from convictions before an application is considered. The length of period over and above the minimum five years will be dependent on factors such as the nature and severity of the offence, and the length of any custodial sentence.
- 10.3. An applicant with a conviction of any Class C drug-related offence will be required to show a period of at least three years free from conviction.
- 10.4. In all cases, where an applicant has been medically classed as an addict, an application will be precluded until such time as a period of five years has elapsed since the completion of a recognised detoxification programme.

## 11. Sexual or Indecency Offences

- 11.1. As hackney carriage and private hire drivers often carry unaccompanied and/or vulnerable people, any applicant with a conviction or caution for any sexual or indecency offence will normally be refused.
- 11.2. Existing licence holders should be aware that if the Council receives notification from the police that the driver is being investigated for a sexual or indecency offence, their licence will normally be revoked with immediate effect pending the outcome of the investigation.

### Major Sexual or Indecency Offences

- 11.3. For the purpose of the Policy, the following offences will be considered as major sexual or indecency offences with the highest risk to the public:
- Rape (Section 1 Sexual Offences Act 2003);
  - Sexual assault (Section 3 SOA 2003);
  - Causing a person to engage in sexual activity without consent (Section 4 SOA 2003);
  - Indecent photographs of children (Section 45 SOA 2003 and Section 1 Protection of Children Act 1978);
  - Sexual activity with a child (Section 9 SOA 2003);
  - Assault by penetration (Section 2 SOA 2003);
  - Trafficking for Sexual Exploitation (Section's 57, 58, 59 SOA 2003);
  - Exploitation of Prostitution (Section's 52 & 53 SOA 2003);
  - Indecent exposure (Section 66 SOA 2003);
- 11.4. Any applicant with a conviction for a major sexual or indecency offence will be considered an unacceptable risk to the public and any application will be refused.

## 12. Violent Offences

- 12.1. The Council considers all violence related offences as a serious risk to the public.
- 12.2. An application will normally be refused where the applicant has been convicted of
- Murder;
  - Manslaughter;
  - Manslaughter, or Culpable Homicide;
  - Causing death by careless or dangerous driving;
  - Arson with intent to endanger life;
  - Terrorism Offences
- 12.3. An application will normally be refused where the applicant has a conviction for a violent offence, other than those listed above, unless there has been a period of five to ten years free of convictions. The length of period over and above the minimum five years will be dependent on factors such as the nature and severity of the offence, and the length of any custodial sentence.

- 12.4. Offences of criminal damage and public order will be treated as violent offences for the purposes of this Policy.
- 12.5. Whilst an isolated conviction for a violent offence, other than those listed above (12.2), will not normally permanently preclude an application, the Council will have grave concern for public safety if an applicant has committed multiple violent offences.

### **Multiple Offences**

- 12.6. In all cases where an applicant has more than two convictions for violent offences, an application will normally be refused. In the case of an existing driver, their licence will normally be revoked.

### **Possession of a Weapon**

- 12.7. If an applicant has been convicted of an offence involving the possession of a weapon, or any other weapon-related offence, the Council considers this to be an unacceptable risk to members of the public and the application will normally be refused. In the case of an existing driver, their licence will normally be revoked.

## **13. Dishonesty**

- 13.1. Hackney carriage and private hire drivers are expected to be persons of trust. It is comparatively easy for dishonest drivers to defraud the public, for example, by demanding more than the legal fare or giving incorrect change. Overseas visitors can be confused by the change in currency and become vulnerable to an unscrupulous driver. Equally, any customers can be defrauded by a driver taking them by any other than the shortest route or by them retaining lost property left in the vehicle.
- 13.2. As members of the public entrust themselves to the care of licensed drivers, the council consider offences involving dishonesty as a serious risk to public safety.
- 13.3. An applicant that has been convicted of an offence related to dishonesty will normally be refused a licence until such time as they have been free of convictions for a period of five to ten years. The length of period over and above the minimum five years will be dependent of factors such as the nature and severity of the offence, and the length of any custodial sentence.

## **14. Other Offences**

- 14.1. If the applicant has declared any other offences not specifically covered by this policy on the relevance of convictions, the application may be referred to the Licensing Committee for determination in line with the Policy Objectives.
- 14.2. Receipt of any of the following may result in the licence holder being required to provide annual DBS disclosures until a period of five years has expired:
- a criminal conviction;
  - a final warning letter from the Council;

- a period of suspension of an existing licence

### **Outstanding Charges or Summonses**

- 14.3. If the individual is the subject of an outstanding charge or summons, their application can continue to be processed, but the application will need to be reviewed at the conclusion of proceedings. Where information is received through the Common Law Police Disclosure previously known as the Notifiable Occupations Scheme on existing licence holder, consideration may be made at Committee.
- 14.4. If the outstanding charge or summons involves a serious offence and the individual's conviction history indicates a possible pattern of unlawful behaviour or character trait, then in the interests of public safety, the application may be put on hold until proceedings are concluded or the licence may be refused.
- 14.5. A suspension or revocation of the licence of a driver takes effect at the end of the period of 21 days beginning with the day on which notice is given to the driver. If it appears that the interests of public safety require the suspension or revocation of the licence to have immediate effect, and the notice given to the driver includes a statement that is so and an explanation why, the suspension or revocation takes effect when the notice is given to the driver (Road Safety Act 2006, s52 2A&2B).

### **Non-Conviction Information**

- 14.6. If an applicant has, on more than one occasion, been arrested or charged, but not convicted for a serious offence, which suggests that he/she could be a danger to the public, consideration should be given to refusing the application. Such offences would include serious violent offences and serious sex offences.

## **15. Summary**

- 15.1. Except in the most serious of circumstances, an applicant having a previous or current conviction will not normally be permanently precluded from obtaining a hackney carriage/private hire driver's licence.
- 15.2. The Council believe that a person convicted of an offence, who is required to wait for the expiry of a rehabilitation period prior to their application being considered, is more likely to value their licence and ensure that future convictions are avoided.
- 15.3. The Council consider that there are, however, certain offences that are so serious in nature or frequency that an applicant should be precluded from obtaining or retaining a licence. The Council's overriding policy objective is to safeguard the safety of the general public by ensuring that all licensed drivers are safe, competent, and are able to maintain their vehicles to an acceptable standard.
- 15.4. By producing clear and transparent guidelines on the relevance of convictions, the Council is seeking to maintain the high standard of hackney carriage and private hire drivers, proprietors and operators within the Borough of Tunbridge Wells.

## **Existing Licence Holders**

- 15.5. Any existing licence holder convicted of an offence during the period of their current licence will be subject to the above policy relating to the relevance of convictions. In circumstances where a new applicant would normally have their application refused, an existing licence holder would normally have their licence revoked.
- 15.6. Driver licence holders who are convicted of any criminal or motoring offence during the period covered by their existing licence, must disclose the conviction and the penalty involved to the Council within seven (7) days of the conviction(s). For these purposes, any offence resulting in the acceptance of a fixed penalty notice will be considered to be a conviction. The exception to this is a parking ticket, which is in fact a penalty charge notice.

## **Principles of the Rehabilitation of Offenders Act 1974 (“the 1974 Act”)**

- 15.7. Under the 1974 Act, criminal convictions can become spent after a certain period of time, and once spent, for many purposes, can be disregarded completely. The possibility of rehabilitation, and the length of time before the rehabilitation occurs, depends on the sentence imposed and not the offence committed. Where a person is sentenced to imprisonment for a period exceeding thirty months, the convictions can never be spent.
- 15.8. Despite the above general principles, the Act does 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.
- 15.9. Although the 1974 Act does not prevent any judicial authority, including the Council acting as 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.

## **National Register of Taxi Licence Refusals and Revocations (NR3)**

- 15.10. The licensing authority provides information to the National Register of Taxi Licence Refusals and Revocations (NR3), a mechanism for licensing authorities to share details of individuals who have had a hackney carriage or Private Hire drivers licence revoked, or an application for one refused. This is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the licensing authority – that is, assessing whether an individual is a fit and proper person to hold a hackney carriage/ PHV drivers licence. This authority issues Dual driver licences.

On this basis :

- Where a hackney carriage/ PH drivers licence is revoked, or an application for one refused, the authority will record this decision on NR3;



- All applications for a new licence or licence renewal will be checked on NR3. If a search of NR3 indicates a match with an applicant, the authority will seek further information about the entry on the register from the authority which recorded it. Any information received as a result of an NR3 search will only be used in respect of the specific license application and will not be retained beyond the determination of that application.

Information will be retained on NR3 for a period of 25 years.

This is a mandatory part of applying for/being granted, a hackney carriage / PHV driver licence. The authority has a published policy on the approach it will take to requests by other authorities for further information about entries on NR3, and about the use it will make of any further information provided to it. Read the policy at Appendix 14.

Information will be processed in accordance with the Data Protection Act (DPA) and General Data Protection Regulation (GDPR) or any subsequent legislation. Any searches, provision or receipt of information of or under NR3 are necessary to the authority's statutory licensing functions of ensuring that all drivers are fit and proper to hold the applicable licence. It is not intended that any NR3 data will be transferred out of the United Kingdom.

If you wish to raise any issue related to the data protection legislation, including by relying on any of the rights afforded to data subjects under the GDPR, you can do so to the authority's Data Protection Officer. Find out more on the data protection page, which includes submitting a subject access request.

# Appendix 2: Vehicle Specification

## 1. General

1.1. All hackney carriage or private hire vehicles shall comply in all respects with the requirements of the Policy. This is in addition to all requirements of road traffic regulations and legislation relating to all motor vehicles, including any Council byelaws which may be appropriate.

1.2. Vehicles shall normally have European Community M1 type approval and must comply in all respects to:

- the Motor Vehicle (Type Approval) Regulations 1980 (European Community Whole Vehicle Type Approval); or
- the Motor Vehicle (Type Approval) Regulations 1984 (United Kingdom Low Volume Type Approval),

and in use must comply with the Road Vehicles (Construction and Use) Regulations 1986. (as amended from time to time)

1.3. Motor vehicles which have M Type approval (European Community Whole Vehicle Type Approval) and have been modified or have been subject to any alterations since manufacture will be considered provided that they are presented with:

- United Kingdom Low Volume/Small Series Type Approval for Passengers Cars; or
- United Kingdom Individual Vehicle Approval.

1.4. However, United Kingdom Individual Vehicle Approval will not be accepted where the seat belts fitted to the vehicle are:

- not those fitted by the manufacturer and tested in accordance with the vehicle's original type approval, or
- where the vehicle has been fitted with seating/wheelchair tracking which may invalidate the original type approval for any seats fitted to the vehicle, except where evidence is produced by the applicant(s) that this is not the case

1.5. Motor vehicles which have N type approval (European Community Whole Vehicle Type Approval) will not normally be considered unless they are presented with United Kingdom Low Volume/Small Series Type Approval for Passenger Cars.

1.6. All vehicles shall:

- be capable of carrying not less than four passengers;
- be fitted with a right hand drive

Special conditions apply to stretched limousines.

Vehicles must have no damage affecting the structural safety of the vehicle. Tunbridge Wells Borough Council will not licence any vehicle that has been classed as an insurance write off.

- 1.7. All vehicles shall be maintained in sound and roadworthy condition at all times and serviced according to the manufacturer's recommendations.

## 2. Vehicle Type

### General (all applications)

- 2.1. Left-hand drive vehicles will not be considered for licensing, with the exception of stretched limousines as detailed in Appendix 3.

### Applications

- 2.2. **All** vehicles for new hackney carriage licence applications must be either:

- a 'London' type hackney carriage; or
- a suitable wheelchair accessible side or rear loading vehicle, approved by the Council

- 2.3. **All** vehicles for new private hire licence applications must be either:

- a saloon, estate or hatchback type vehicle with a least four side doors;
- a purpose-built mini-bus designed to carry not less than four nor more than eight passengers; or
- a suitable wheelchair accessible side or rear loading vehicle, approved by the Council

## 3. Hackney Carriage and Private Hire Vehicles

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

- 3.2. 'London' type hackney carriages may be licensed to a maximum of fifteen years old from the date of first registration, subject to six-monthly testing by the Council's authorised garage. Each six-monthly test requires the vehicle to obtain a 'Compliance Pass Certificate' from one of the Council's nominated garage.

- 3.3. Vehicles meeting this requirement may be licensed until such time as the above requirements cannot be achieved. At such a time, the vehicle will no longer be licensed. Where repair work will not be completed prior to the expiry of the previous licence, a valid renewal licence application and fee must have been received prior to the previous licence expiry date for this section to apply. The Authority will not renew a vehicle licence if it is more than 15 years old at the time that it is presented for renewal, unless there are exceptional circumstances, to be decided by Committee.

- 3.4. These requirements are in addition to the general testing requirements of Appendix 1 of this Policy.
- 3.5. Approved 'Wheelchair accessible' type hackney carriages/private hire may be licensed for a maximum of fifteen years from the date of first registration, subject to six monthly testing by one of the Council's authorised garages. Each six-monthly test requires the vehicle to obtain a 'Compliance Pass Certificate'.
- 3.6. Vehicles meeting this requirement may be licensed until such time as the above requirements cannot be achieved. At such a time, the vehicle will no longer be licensed. Where repair work will not be completed prior to the expiry of the previous licence, a valid renewal application and fee must have been received prior to the previous licence expiry date for this section to apply. The Authority will not renew a vehicle licence if it is more than 15 years old, at the time that it is presented for renewal.
- 3.7. These requirements are in addition to the general testing requirements of Appendix 2 of this Policy.
- 3.8. Saloon, estate, hatchback, or multi-passenger type hackney carriages/private hire vehicles, may be licensed for a maximum of ten years from the date of first registration, subject to six-monthly testing by one of the Council's authorised garages. Each six-monthly test requires the vehicle to obtain a 'Compliance Pass Certificate'.
- 3.9. Vehicles meeting this requirement may be licensed until such time as the above requirements cannot be achieved. At such a time, the vehicle will not longer be licensed. Where repair work will not be completed prior to the expiry of the previous licence, a valid renewal application and fee must have been received prior to the previous licence expiry date for this section to apply. The Authority will not renew a vehicle licence if it is more than 10 years old, at the time that it is presented for renewal, unless there are exceptional circumstances, to be decided by Committee.
- 3.10. These requirements are in addition to the general testing requirements of Appendix 2 of this Policy

## **4. Doors**

- 4.1. All saloon, estate, hatchback, or 'London style' hackney carriage and private hire vehicles shall have at least four side-opening doors, which may be opened from the inside and the outside.
- 4.2. Minibuses, transits and multi-passenger vehicles shall have at least three (3) doors not including any tailgate or rearward facing doors. There must be a minimum of one hundred and thirty seven centimetres width between door handles.

4.3. All vehicles must have sufficient safe and suitable access and egress from the vehicle for the driver and all passengers, excluding the rear exit and the driver's front door.

## **5. Tyres**

5.1. The licensed vehicle must be fitted with either all radial or all cross-ply tyres, including the spare wheel.

5.2. All tyres, including the spare wheel, must be suitable for use on the vehicle and conform to the requirements of the Original Manufacturers' Specification.

5.3. Run-flat tyres are acceptable on licensed vehicles.

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

5.5. If a 'space-saver' spare tyre is used on a licensed vehicle it must only be for the duration of completing the current fare and returning to a garage to obtain a suitable replacement. No further fares may be taken whilst the 'space-saver' spare tyre is being used on the vehicle.

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

5.7. If a 'tyre repair kit/compressor' is used on a licensed vehicle in lieu of a spare tyre it must only be for the duration of completing the current fare and returning to a garage to obtain a suitable replacement. No further fares may be taken whilst the tyre repaired with the 'tyre repair kit /compressor' is being used on the vehicle.

## **6. Drivers' Vehicle Mirrors**

6.1. External rear view mirrors must be fitted to both sides of all licensed vehicles.

6.2. All licensed vehicles must have an internal rear view mirror appropriately fitted in accordance with appropriate legislation and/or manufacturers' specification.

## **7. Interior Dimensions**

7.1. There must be sufficient space between the seat cushions and the lowest part of the roof to safely accommodate the driver and passengers in reasonable comfort. Eighty six centimetres is the minimum recommended.

7.2. There must be sufficient space between the front and back seats to safely accommodate the driver and passengers in reasonable comfort. There must be at least eighteen centimetres between the back of the front seat and the front of the next row of rear seats.

## **8. Seats**

- 8.1. Passenger seats must be at least forty one centimetres wide per passenger with no significant intrusion by wheel arches, armrests or other parts of the vehicle. Measurements are to be taken laterally along the widest part of the seat.
- 8.2. Suitable means must be provided to assist persons to rise from the rear seat with particular attention to the needs of the elderly and disabled.
- 8.3. Unless the Original Manufacturers' Specification states otherwise, the front seat of the vehicle next to the driver will be regarded as a seat for one passenger only.

## **9. Seat Belts**

- 9.1. All vehicles must be fitted with fully operational seat belts, one for each passenger to be carried, fully compliant with the relevant British Standards, except where legislation specifically provides an exemption.
- 9.2. In relation to the carriage of all passengers, including children, the requirements of all relevant legislation must be complied with.
- 9.3. It is the driver's responsibility to ensure that all passengers under 14 years of age use an appropriate child restraint or wear a seat belt.

## **10. Passenger Capacity**

- 10.1. All licensed vehicles should be capable of carrying not less than four and not more than eight passengers.
- 10.2. Children are classed as one person for the purposes of passenger capacity whatever the age.
- 10.3. The seating capacity for each licensed vehicle will be determined by the Council and the vehicle licence plate will state the number of passengers applicable to the vehicle.

## **11. Fire Extinguishers**

- 11.1. An appliance for extinguishing fires must be carried in all licensed vehicles. Such an appliance must be suitable for vehicle fires (fire class B and C) and Conform to BSEN 3, showing the appropriate kite-mark.
- 11.2. The appliance must be securely fixed in a position readily accessible to the driver. It is acceptable for the appliance to be carried inside the vehicle's luggage compartment; however, it is preferable that the appliance is carried in the passenger compartment and visible to the passengers.
- 11.3. All extinguishers must be certified in accordance with the appropriate British Standard. The date of expiry must be clearly visible on the extinguisher. The

extinguisher must be marked with an indelible marker pen with the vehicle registration number or licence plate number.

## **12. First Aid Kit**

- 12.1. All licensed vehicles must carry a first aid kit suitable for treating minor injuries that complies with the advice of the Health and Safety Executive approved code of practice and guidance for self-employed persons as a minimum. There is no requirement for a driver to administer first aid treatment other than to himself while he is at work, however, the first aid kit should be made available to passengers or appropriate persons when needed.
- 12.2. The first aid kit should be stored in such a position so as to be readily available to the driver at all times.
- 12.3. The first aid kit should be marked with an indelible marker pen with the registration or plate number of the vehicle and replenished as necessary to conform to any product expiry date.

## **13. Ventilation**

- 13.1. Windows must be provided to all passenger compartments along with adequate means of opening and closing not less than one window on either side of the vehicle, in both the front and rear passenger compartments.
- 13.2. Rear passenger windows must be capable of being opened by passengers when seated.

## **14. Luggage**

- 14.1. Adequate storage for passenger luggage must be available. Luggage carried must be suitably secured in place without obstructing any emergency exits.
- 14.2. If the licensed vehicle is an estate, hatchback, or multi-passenger type vehicle, it must be fitted with a guard-rail or manufacturer's specification compartment cover, approved by the Council, to prevent luggage from entering the rear passenger compartments. Exemption from this requirement will only be given where the construction of the vehicle, in the Council's opinion, does not require such a rail or cover.

## **15. Maintenance and Condition of the Vehicle**

- 15.1. The exterior of all licensed vehicles shall be maintained in a clean, safe and proper manner at all times. In particular, the exterior of the vehicle shall:
  - be free of large and/or sharp-edged dents;
  - be free of visible rust;
  - be free of unrepaired accident damage (except where a Licensing Officer has agreed a time period for cosmetic repairs under Section A30.2;

- have uniform paintwork equivalent to that applied by the manufacturer; and
- be maintained in an acceptable state of cleanliness, (discretion may be given during periods of adverse weather).

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

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

15.3. For the avoidance of doubt, any vehicle that would not pass an Engineer's Report or MOT should not be used until such time as the requirements of the Engineer's Report and MOT can be met.

15.4. All licensed vehicles shall be liable to be randomly inspected and tested by an Authorised Council Officer or the Police. If it is discovered during an inspection that a vehicle is not being properly maintained a Rectification Notice may be served on the proprietor/owner under Section 68 of the Local Government (Miscellaneous Provisions) Act 1976. This notice will specify the defects and the action required to remedy the problem.

15.5. Failure to comply with the requirements of a Rectification Notice will be considered a serious breach of licensing requirements and dealt with accordingly. If the requirements of a Rectification Notice are not rectified within two months, the vehicle licence can be revoked in accordance with Section 68 of the Local Government (Miscellaneous Provisions) Act 1976.

## 16. Modifications

16.1. No material alteration or change in the specification, design, condition or appearance of any licensed vehicle may be made without:

- compliance with road traffic legislation;
- compliance with insurance requirements; and
- obtaining approval for the changes(s) from the Council.

## 17. Licence Plate(s)

17.1. At all times when a vehicle is licensed as a hackney carriage or private hire vehicle, unless an exemption has been granted under Appendix 13 of this Policy, the vehicle must display the following:

External Plate – this plate is provided by the Council and must be securely fixed externally in a prominent position on or above the rear bumper of the vehicle. This is achieved by way of bracket supplied by



the Council or via pop-rivet or self tapping screws. Velcro or similar is NOT acceptable.

**The external plate is not permitted to be displayed in the rear window of the vehicle;**

- Internal Plate – this is provided by the Council, and should be located inside the vehicle on the left hand side of the front windscreen and in plain view of the passengers, but avoiding the windscreen wiper area;
- Fare Tariff Chart – should be displayed in the vehicle in such a manner that it is clearly visible to passengers which sets out the current maximum hackney carriage fare tariffs adopted by the Council (or if the vehicle is private hire the operator’s fares if they are displayed).

17.2. The licence plate remains the property of the Council and must be returned within seven (7) days when:

- the vehicle ceases to be licensed as a hackney carriage or private hire vehicle; or
- requested to do so by an Authorised Officer of the Council in writing when the plate is suspended, revoked, or has expired

17.3. Exemption to the requirements of Section 18.1., of this Policy may be given in certain circumstances to private hire vehicles. In order to qualify for exemption, a written letter of exemption must be obtained from the Council and carried in the vehicle in these circumstances.

17.4. In the absence of an exemption letter in the vehicle, the requirements of Section 17.1 above must be complied with.

## **18. Signage**

### **Hackney Carriage Vehicle Markings**

18.1. Hackney carriage vehicles, other than those with built-in roof signs, must be fitted with an illuminated external sign on and above the roof of the vehicle. The sign must display either:

- the word ‘TAXI’; or
- the name and telephone number of the hackney carriage company; or
- the words ‘FOR HIRE’; or
- a combination of the above

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

18.3. The illuminated external roof sign, including built-in roof signs, must be switched off when the vehicle has been hired and illuminated when available for hire.

- 18.4. The roof sign, other than those built-in to the vehicle, must be mounted on the forward half of the vehicle roof and be adequately secured.
- 18.5. An additional internal illuminated 'FOR HIRE' sign may be fitted in licensed hackney carriages, in a position approved by the Council. The sign's illumination must be switched off when the vehicle has been hired.

### **Private Hire Vehicle Markings**

- 18.6. A private hire vehicle must not carry any roof sign or any markings that may give the impression that it is a hackney carriage.
- 18.7. Any advertising or signage on the vehicle must not include the words 'Taxi' 'cab', 'hackney carriage' or 'hire'.
- 18.8. In the case of the word 'Taxi' being part of the company name, for example 'XYZ Taxis', the company name may be displayed on the vehicle provided that there is also reference to the fact that the vehicle is a private hire vehicle and must be pre-booked.
- 18.9. Private hire vehicles must display a 'pre-booked only' sticker on the nearside back and offside back doors stating two lines of text:
  - 'PRIVATE HIRE'; and
  - 'PRE-BOOKED ONLY'
- 18.10. These stickers are available from the Licensing Team at Tunbridge Wells Borough Council, the offices of Gateway 8 Grosvenor Road, Royal Tunbridge Wells, TN1 2AB or the Licensing Partnership offices based at Sevenoaks District Council, Argyle Road, Sevenoaks Kent TN13 1HG.

## **19. Contracts**

- 19.1. Whilst carrying school children under contract with Kent County Council, the proprietor/driver of the vehicle shall cause to be displayed in the front windscreen of the vehicle, "School Children" sign, such sign shall be removed immediately the school contract journey has ended.

## **20. Advertising**

- 20.1. No more than five (5) external advertisements shall be permitted on hackney carriages or private hire vehicles. The roof sign on hackney carriages is not included as an advertisement for the purpose of this section.
- 20.2. External advertisements shall be confined to the front door panels or the rear of the vehicle.
- 20.3. Any advertisement on the front doors panels or rear of the vehicle must be restricted to the name, logo or insignia, telephone number, or other contact details

of the owner or operator of the vehicle. Pay by card adverts are permitted. No other advertisement is permitted on the front door panels or rear of the vehicle.

- 20.4. No advertisement shall obliterate, obscure or be confused with the vehicle's licence plate.
- 20.5. Internal advertisements are permitted on the windscreen or rear window but must be:
  - no wider than ten centimetres;
  - positioned so that they do not obstruct the driver's view in any way; and
  - be restricted to the name, logo or insignia, telephone number, or other contact details of the owner or operator of the vehicle.
- 20.6. For the purposes of this section, the display of 'no smoking' signage, as required by legislation, is not considered to be advertising.
- 20.7. For the purpose of this section, a sign indicating that the vehicle is able to convey passengers in wheelchairs (provided that the vehicle has been manufactured or properly adapted for that purpose) is not considered to be advertising.
- 20.8. All advertisements shall be in good taste and contain no material that may be considered to be offensive to any section of the community.
- 20.9. The owner of any vehicle displaying an advertisement that does not confirm to this section of the Policy will be required to remove the offending advertisement. Until such time as the offending advertisements has been removed, the vehicle licence will be suspended.

## 21. Communications Devices

- 21.1. All two-way radio equipment must be of a type currently approved by the [Radio Communications Agency](#).
- 21.2. All radio equipment fitted to the vehicle must be fitted securely and safely in accordance with guidelines for the time being published by the Radio Communications Agency.
- 21.3. Only one two-way radio may be operational in the vehicle at any one time and this shall be an approved licensed radio used exclusively for the hackney carriage or private hire vehicle.
- 21.4. The use of a Citizen Band (CB) transmitter or receiver is prohibited.
- 21.5. The use of radio-scanning devices is prohibited and such devices must not be fitted or carried in the vehicle.

## 22. Meters

### Hackney carriages

- 22.1. 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.
- 22.2. All taximeters must be appropriately stamped to ensure compliance with The Measuring Instruments (Taximeters) Regulations 2006 or any subsequent legislation.
- 22.3. The taximeter shall be positioned so that the display on the face of the meter may be clearly visible to any person being conveyed in the vehicle at all times. The dial of the taximeter shall be kept properly illuminated throughout any part of the hiring including during the hours of darkness and also at any time at the request of the hirer.
- 22.4. When the meter is operating there shall be recorded on the face of the meter in clearly legible figures a fare not exceeding the maximum fare that may be charged for a journey.
- 22.5. An official copy of the Council's fare tariff shall be clearly displayed and legible in the vehicle so as to be plainly visible to passengers carried therein.
- 22.6. The vehicle taximeter shall be brought into operation at the commencement of the journey and the fare demanded by the drivers shall not be greater than that fixed by this Council in connection with the fare tariff for the hire of hackney carriages.
- 22.7. In the event of such a journey commencing in but ending outside the hackney carriage zone, the driver may charge 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.

### Private Hire

- 22.8. Private hire vehicles are not required to be fitted with a taximeter. Where a taximeter or other device for recording fares is fitted, however, it must be of a type approved by the Council. See Appendix 14.
- 22.9. Private hire vehicle drivers should agree the cost of the journey with the passenger(s) prior to undertaking the journey. At the conclusion of the journey, the fare charged should not exceed the amount previously agreed.

## 23. Trailers

- 23.1. Trailers may only be used with the prior approval of the Council and subject to the following requirements:

23.2. The driver's DVLA driving licence must cover the categories that allow the towing of trailers, currently 'BE' for Cars and 'D1E' for a passenger carrying vehicle 9-16 passenger seats, e.g. minibus, as amended by any subsequent legislation;

- The trailer must, at all times comply with all requirements of road traffic legislation, in particular those as laid down in the Road Vehicles (Construction and Use) Regulations 1986;
- The vehicle insurance must include cover for towing a trailer;
- Trailers must not be left unattended anywhere on the highway;
- The speed restrictions applicable to trailers must be observed at all times;
- A suitable lid or other approved means of enclosure shall be fitted to secure and cover the contents of the trailer whenever in use;
- Trailers must be approved by the Council's nominated garage, this may attract an additional charge;
- Trailers must undergo any inspection required by the Council;
- Trailers must display an identical licence plate to the licensed vehicle. The Council may charge an administrative fee for the duplicate plate;
- Trailers cannot be used on a hackney carriage rank and should only be used for specific pre-booked journeys, not whilst plying for hire.

## 24. Disability Access

24.1. Where a vehicle is utilised for the carriage of passengers to ensure that it is possible for disabled passengers to get into and out of vehicles safely in a wheelchair, the following conditions shall apply:

- Access to and exit from the wheelchair position must not be obstructed in any manner at any time except by wheelchair loading apparatus;
- Wheelchair internal anchorage must be of the manufacturer's design and construction and secured in such a position as not to obstruct any emergency exit;
- A suitable restraint must be available for the occupant of a wheelchair;
- Access ramps or lifts to the vehicle must be securely fixed prior to use, and be able to support the wheelchair, occupant and helper;
- Ramps and lifts must be securely stored in the vehicle before it may move off.
- Drivers will be required to carry the passenger's wheelchair if the wheelchair-user chooses to sit in a passenger seat during the journey;
- Drivers cannot refuse hires from wheelchair users;
- Drivers will be obliged to take such steps as are necessary to ensure that the wheelchair-user is carried in safe and reasonable comfort;
- Drivers must provide reasonable levels of mobility-assistance to the disabled passenger.

24.2. 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's Regulations. Any such equipment must be maintained in good working order and be available for use at all times.

- 24.3. Where a vehicle is designed or adapted to carry a wheelchair, the proprietor shall ensure that the driver has received sufficient training to safely load and convey wheelchair-bound passengers. Details of the training provider are detailed at page 7, 5.3 above.
- 24.4. Where a vehicle is adapted to carry a wheelchair, the certificate of conversion must be submitted to the Council. This is to ensure the wheelchair equipment fitted to the vehicle conforms with the required ISO 10542 standards.
- 24.5. It is a criminal offence for a driver and/or operator to make an extra charge for carrying a wheelchair. If it is established that this has occurred the driver and/or operator will be subject to appropriate enforcement action by the Council.

## **25. Vehicles Powered by Liquid Petroleum Gas (LPG)**

- 25.1. An applicant for a licence involving a vehicle that has been converted to run on LPG is required to produce, prior to a licence being issued, a certificate issued by a member of the LPG Association confirming satisfactory installation, examination and testing of the vehicle in accordance with LPG Association Code of Practice. This certificate is required to ensure that the vehicle is considered safe by an approved inspector.
- 25.2. If an LPG conversion involves installation of a LPG fuel tank in a vehicle's boot space (and possible relocation of the spare wheel) it shall be a requirement that an amount of space shall remain free for the stowage of a reasonable amount of luggage and any spare wheel displaced as a result must be stowed in a location that does not impinge on the passenger carrying area of a vehicle. Alternatively, if the vehicle is fitted with 'run-flat' tyres, exemption from carrying a spare wheel will be granted.

## **26. Tinted Window**

- 26.1. *All windows must meet the requirements as prescribed by the Road Vehicles (Construction and Use) Regulations.*

## **27. Insurance**

- 27.1. There shall be a policy of insurance, or such security as complies with the requirements of Part VI of the Road Traffic Act 1972, during the duration of the vehicle licence. Under no circumstances will a vehicle licence be issued or renewed without proof that this section has been complied with.
- 27.2. The registered owner of the licensed vehicle shall ensure that it is adequately insured to the satisfaction of the Council (Fully Comprehensive) and all relevant legislation at all times that it is available for the carrying of passengers.

27.3. At any time when the requirements of this section of the Policy have not been satisfied, the vehicle licence may be suspended until such time as adequate insurance has been obtained.

## 28. Changes

28.1. In accordance with section 49 of the Local Government (Miscellaneous Provisions) Act 1976, any change affecting this vehicle licence must be notified within fourteen days of such change to the Licensing Authority.

28.2. When the holder of a vehicle licence wishes to transfer the licence to another person he must notify the Authority, in writing, using the prescribed application form and paying the appropriate fee before such change takes place. The new proprietor must also notify the authority of such change. Failure to do so is an offence.

28.3. When a transfer takes place, a valid insurance document, V5 registration document **and** bill of sale and current MOT test certificate must also be submitted to the Authority.

## 29. Inspection

29.1. All hackney carriage and private hire vehicles must be available for inspection at all times when requested by an Authorised Officer of the Council or a Police Officer.

29.2. All vehicle documentation must be produced within twenty four hours, or such other time as specified, when requested by an Authorised Officer of the Council or a Police Officer.

## 30. Unauthorised Use

30.1. The proprietor of a hackney carriage or private hire vehicle shall not allow the vehicle to be driven by any person who does not hold an appropriate hackney carriage/private hire driver's licence issued by The Council.

30.2. For the avoidance of doubt, case law has established that once licensed as a hackney carriage or private hire vehicle, the vehicle remains a licensed vehicle at all times until the licence expires, is surrendered, is suspended or is revoked. Even if a licensed vehicle is being used for private purposes, it must still meet all the requirements of a licensed vehicle, for example displaying a licence plate and being driven by a licensed driver.

## 31. Accident Reporting

31.1. In accordance with Section 50(3) of the Local Government (Miscellaneous Provisions) Act 1976, any accident to a hackney carriage or private hire vehicle causing damage materially affecting:

- The safety, performance or appearance of the vehicle; or
- The comfort or convenience of the passengers

must be reported to the Council as soon as reasonably practicable, and in any case within seventy-two hours of the occurrence thereof.

- 31.2. Where, following an accident or damage to a licensed vehicle as defined above (A32.1.) and it is the intention of the owner or operator to continue licensed use, it is the responsibility of the licence holder to notify the Council that this requirement has been satisfied and the vehicle must be inspected by an Authorised Officer of the Council or at one of the Council's approved garages (at the owner/proprietor's expense) to determine its fitness for continued use.
- 31.3. If one of the Council's approved garages determines that the vehicle is not fit for continued use, the time-scale for cosmetic repairs must be agreed with a Council's Licensing Officer.
- 31.4. A licensed vehicle which has suffered major accident damage or requires substantial mechanical repair may be temporarily replaced by a hire vehicle provided:
- The damage to, or defect in, the vehicle has been reported and;
  - An application is made in the prescribed manner for a vehicle licence transfer;
  - The replacement vehicle meets the requirements of the Council's Hackney Carriage and Private Hire Licensing Policy and is suitable to be used for hire purposes; and
  - The hiring of the hire vehicle is organised and paid for by the affected licensed owner or operator

## **32. Miscellaneous**

- 32.1. The proprietor of a hackney carriage or private hire vehicle shall not knowingly cause or permit the vehicle to be used for any illegal or immoral purpose.
- 32.2. Nothing in this Policy shall be interpreted as overriding the provisions of:
- The Town Police Clauses Act 1847 & 1889, as amended;
  - The Local Government (Miscellaneous Provisions) Act 1976, as amended;
  - The Transport Act 1980, as amended;
  - Or any other relevant legislation.

## **33. Health Act 2006**

- 33.1. Smoking in a smoke-free place is prohibited under the Health Act 2006. In this context a 'smoke-free place' will include a hackney carriage vehicle, private hire vehicle as well as a private hire operators premises which is open to the public. In the context of the Health Act 2006, smoking relates to the smoking of cigarettes and other tobacco products, this includes e-cigarettes and vaping products.



- 33.2. It is the responsibility of both the driver and the proprietor to ensure no smoking signage, as prescribed by the Health Act 2006, is displayed in all licensed hackney carriages or private hire vehicles at all times.

## **34. Dual Plating**

- 34.1. No vehicle will be granted a licence by Tunbridge Wells Borough Council if it's licensed by another authority. This is due to the fact that a vehicle is unlikely to comply with the requirements of two separate licensing authorities and will cause confusion to members of the public.
- 34.2. The Licence of any vehicle discovered licensed by another local authority will be revoked with immediate effect.

## **35. Dispensation/Variation of Conditions**

- 35.1. The Council may in exceptional circumstances by way of special condition dispense with or vary any of the conditions set out herein

# Appendix 3: Additional Conditions for Licensing Stretched Limousines

## 1. Definition

1.1. For the purposes of this Policy, a stretch limousine is defined as follows:

*A stretch limousine is a motor vehicle that has been lengthened by the insertion of an additional body section and modified by a coachbuilder to contain luxury facilities and fixtures that:*

- is capable of carrying up to but not exceeding 8 passengers;
- prior to the introduction of this Policy could not currently be licensed by the Council as a private hire vehicle; and
- is not a decommissioned military or emergency service vehicle.

1.2. All references to limousine within this Policy assume compliance with the above definition.

## 2. Licensing Conditions

2.1. Unless specifically stated otherwise below, all requirements relating to the licensing of private hire vehicles apply to limousines. The requirements below are additional requirements specifically for limousines licensed as private hire vehicles.

### 2.2. Left-Hand Drive

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

### 2.3. Seating

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

### 2.4. Roadworthiness

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

### 2.5. Insurance

All limousines licensed as private hire vehicles must have appropriate insurance to cover the provision of a service to the public for hire and reward, taking into account the specification of the vehicle.

### 2.6. Tyres

Given the increased weight of the vehicle, the vehicle must be fitted with tyres of appropriate size and grade to conform with the Original Manufacturers' Specification.

## **2.7. Vehicle Testing**

All limousines licensed as private hire vehicles must obtain six-monthly test certificates showing that the vehicle has satisfied the standards of the appropriate MOT Class. The vehicle licence holder is responsible for sourcing a garage approved to carry out such tests and providing documentation attesting to the garage's compliance with the requirements of Section 2 of this Policy.

## **2.8. Carrying of Passengers**

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

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

The vehicle must not carry more than eight passengers at any time. For the purpose of counting passengers, a child of any age will be classed as a passenger.

## **2.9. Advertising**

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

## **2.10. Seat Belts**

Seatbelts complying with all relevant legislation must be fitted to all forward and rear facing seats and must be worn by passengers at all times the vehicle is in motion.

There is no legal requirement for seatbelts to be fitted on sideways facing seats; however, if they are fitted they must be worn by passengers at all times the vehicle is in motion.

## **2.11. Provision of Alcohol**

Alcoholic drinks may only be provided in the vehicle when the vehicle is complying with all relevant requirements of the Licensing Act 2003.

Alcohol shall only be served whilst the vehicle is stationary. Whilst the vehicle is in motion, all receptacles containing alcohol shall be securely stored.

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

All glassware used in the vehicle must be made of shatterproof glass, or alternatively be made of plastic. The vehicle proprietor should also be aware of the Council's Statement of Licensing Policy in respect of the Licensing Act 2003.

## **2.12. Provision of Entertainment**

The driver shall not play or permit the performance of any media that, given its age classification or content, is unsuitable for the age of the youngest passenger in the vehicle.

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

If the limousine parks to provide some form of licensable entertainment for its passengers, only entertainment complying with the relevant requirements of the Licensing Act 2003 shall be permitted.

#### **2.13. Luggage**

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

#### **2.14. Safety Hammer**

Limousines licensed as private hire vehicles must carry a safety hammer capable of being used to break the window glass of the vehicle. The hammer must be securely located within the driver's compartment.

### **3. Driver and Operator Licensing Requirements**

3.1. A proprietor offering limousines licensed as private hire vehicles for hire in Tunbridge Wells must hold a private hire operators' licence with The Council.

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

3.3. Once licensed in Tunbridge Wells as a private hire vehicle the limousine can only be driven by a private hire driver licensed by the Council. This applies at all times whilst the vehicle holds a private hire vehicle licence.

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

### **4. Vehicle Testing Stations**

4.1. Limousines licensed as private hire vehicles will be required to provide six-monthly MOT certificates from a VOSA goods vehicle testing station, or alternatively a VOSA approved class 5 testing station, that has appropriate facilities.

4.2. If you propose to obtain an MOT from any vehicle testing station other than those listed in para 31, page 20 of this Policy, you are advised to contact the Council before submitting the vehicle for an MOT, otherwise you may find that the certificate cannot be accepted.

# Appendix 4: Application Procedure

## 1. Vehicles

1.1. When presenting an application, the following documents **MUST** accompany the prescribed application form and fee;

- **Registration document** (which must show the keeper to be the applicant either wholly or jointly with any other person(s) hereinafter described as proprietor(s) thereof);
- **Insurance certificate** (if a cover note, licence holders will be required to produce further insurance certificates on or before the expiry of the cover note);

1.2. The application will not be considered complete and the licence plate will not be issued until the following documentation has been received.

- **MOT certificate;**
- **Engineer's report** (also known as a compliance certificate)

The application form and payment can be completed online or sent together with original documents to Sevenoaks District Council.

1.3. Licence plates and paper licences can be collected from the Licensing Partnership Offices at Sevenoaks District Council during normal office hours or at Tunbridge Wells Borough Council offices by prior arrangement.

1.4. Prior to submitting the vehicle for testing, owners must ensure that the vehicle is in good condition, i.e., mechanically sound, and bodywork in a satisfactory condition. The Council's approved garages may ask for the engine and/or full chassis to be steam cleaned if the vehicle is presented in a state whereby the components are too dirty to inspect.

## 2. Drivers

2.1. Applications for hackney carriage/private hire driver's licences may be made at any time of the year.

2.2. Applications are to be made online or on the prescribed application form provided by the Council.

2.3. In support of a completed application form, the applicant must provide the following original documentation:

- A current photo card driving licence;
- Two colour passport-sized photographs (if required);
- The specified fee;

- Right to work original documentary evidence, if applicable;
- 2.4. To complete an application, it is the responsibility of the applicant to supply in addition to Section 2.3 above:
- Driving Standard Assessment pass certificate – practical taxi test and wheelchair test (where applicable);
  - Completed medical form;
  - Eight Digit Code supplied by the DVLA;
  - Disclosure and Barring Enhanced Certificate (DBS) and/ or their unique reference number provided by the DBS online checking service within 7 days of receipt.

### 3. New Driver Knowledge Tests

#### Introduction

- 3.1. In order to maintain the high standards that the Council expects of its licensed drivers operating within the Borough, all potential drivers are required to pass the Council's computerised knowledge test.
- 3.2. The Council acknowledges that the same level of instant geographical knowledge of the Borough is not as necessary for those drivers wishing to operate private hire vehicles as those drivers intending to operate hackney carriage vehicles, because all private hire is pre-booked and so the driver has the opportunity to research the destination prior to departure. However this Council issues dual drivers licences and thereby drivers should, as good practice, have a good working knowledge of the area in which they are licensed.
- 3.3. All applicants must provide **original** documentary evidence confirming their right to live and work in the UK, see the [list of acceptable documents on our website](#).

Applicants who fail to do so will not be permitted to sit the test

[Knowledge test example questions are provided on our website](#)

- 3.4. No refund will be payable for missed knowledge tests unless mitigating circumstances are provided to officers. Each case will be considered on its own merits.

#### Test Composition

- 3.5. Applicants will be required to correctly answer questions on:
- The Council's Hackney Carriage and Private Hire Licensing Policy;
  - The Highway Code;
  - Customer Care, including calculation of change for a given fare; and
  - Knowledge of the Borough, which will include places of interest, roads and journeys as listed in the sample Bank of Routes, taking the shortest practicable route.

3.6. A minimum of ninety minutes should be allowed for the test. Applicants will be required to demonstrate knowledge of the area and should refer to the sample Bank of Routes, but also to maps and a local A-Z.

3.7. **Equality Online (EQUO)** Safeguarding/Disability Awareness/County Lines.

Test Composition – [a breakdown of what is included can be viewed on our website](#).

Driver Test Failure

3.8. Applicants who fail to achieve a pass in Section 3 above, shall fail the Driver Knowledge Test and be invited to take a different test on another occasion.

A fee will be charged for each test undertaken See our [Taxi Licence Fees page](#) for current fee.

3.9. Applicants are restricted to three attempts to pass the computerised knowledge test. A fresh application can be made but a period of 6 months is required to elapse before another attempt can be made to enable the applicant to develop the necessary knowledge and skills.

## 4. The consideration of applications

4.1. The application process will commence after the applicant has passed the computerised knowledge test. The applicant will then be required to submit their application.

4.2. Upon receipt of an application form, including the fee and supporting documentation, the Council will start the process. However, to complete the process, it is the responsibility of the applicant to supply any additional items as requested by the Council. Where an application is incomplete, it will not be considered until all the requested details or documents are supplied.

4.3. If satisfied that an applicant is a 'fit and proper' person to hold a hackney carriage/private hire drivers licence, having satisfied all the licensing requirements, the application will be granted under delegated powers as provided for by the Council's Scheme of Delegation.

4.4. Applicants who are granted drivers' licences shall be issued with the appropriate paper licence and a driver's badge, which shall remain the property of the Council and must be surrendered when the driver ceases employment as a driver.

4.5. Those who are granted vehicle licences shall be issued with the appropriate paper licence and a licence plate, which shall remain the property of the Council and must be surrendered when the vehicle licence expires or ceases to be used as a licensed vehicle.

4.6. Where the Licensing Officer is not satisfied that the applicant should be granted a licence, the matter must be referred to the Licensing Committee. The applicant will

be advised of the date, time and venue of the meeting at which the application will be considered.

- 4.7. In preparation for the meeting with the Licensing Committee, all parties in attendance will receive a report in advance from Democratic Services.
- 4.8. At the meeting, the Committee shall hear representations from the applicant and may ask any pertinent questions, before deciding upon whether a licence should be granted. The applicant will be told of the outcome at the conclusion of the meeting and this will be confirmed in writing within five (5) working days.
- 4.9. Unsuccessful applicants will be informed of their right to appeal against the decision to the magistrate's court within twenty one days of receipt of the formal notice of refusal of the application.

## **5. Criminal Conviction Certificate's (Disclosure and Barring Service checks)**

### **5.1. New Applicants**

No application for a new hackney carriage/private hire driver's licence will be considered without an enhanced DBS disclosure satisfying the requirements of this Policy.

### **5.2. Applications for Renewal**

Applications for the renewal of a hackney carriage/private hire driver's licence will be considered in the absence of a current enhanced DBS disclosure providing that:

- the DBS disclosure has been applied for

- 5.3. If the subsequent DBS disclosure highlights a conviction, the drivers licence may be suspended or revoked in accordance with this Policy. In addition, the driver may be prosecuted for failing to advise of the conviction and for making a false declaration as part of the application process.



## **Appendix 5: Assessing Applicants and Existing Drivers for a Hackney Carriage/Private Hire Driver Licence in accordance with Group Two Medical Standards**

The following arrangements (extract from the Driver & Vehicle Licensing Agency (DVLA)) mean that those with good diabetic control and who have no significant complications can be treated as “exceptional cases” and are not therefore precluded from being licensed as a Hackney Carriage/Private Hire Driver.

All the following criteria must be met for the DVLA and the Licensing Authority to license the person with insulin-treated diabetes for 1 year (with annual review as indicated last below):

- full awareness of hypoglycaemia;
- no episode of severe hypoglycaemia in the preceding 12 months;
- practises blood glucose monitoring with the regularity defined in the box below;
- must use a glucose meter with sufficient memory to store 3 months of readings as detailed below
- demonstrates an understanding of the risks of hypoglycaemia
- no disqualifying complications of diabetes (see page 74 of the DVLA Assessing fitness to drive) that would mean a licence being refused or revoked, such as visual field defect (see Chapter 6, visual disorders, page 93 of the DVLA Assessing fitness to drive ).

### **Group 2 Bus and Lorry**

- regular blood glucose testing – at least twice daily including on days when not driving;
- no more than 2 hours before the start of the first journey; and
- every 2 hours while driving.

More frequent self-monitoring may be required with any greater risk of hypoglycaemia (physical activity, altered meal routine), in which case a bus or lorry driver may be licensed if they:

- use one or more glucose meters with memory functions to ensure 3 months of readings that will be available for assessment.

### **Diabetes management requirements for insulin-treated Group 2 Bus and Lorry licensing**

The Council may take the following measures to ensure the requirements are met for licensing of insulin-treated Group 2 bus and lorry drivers:

- require the applicant's usual doctor who provides diabetes care to undertake an annual examination including review of the previous 3 months of glucose meter readings. This will be at the applicant/driver's expense;
- arrange an examination to be undertaken every 12 months by an independent consultant specialist in diabetes if the examination by their usual doctor is unsatisfactory. This will be at the applicant/driver's expense.
- at the examination, the consultant will require sight of blood glucose self-monitoring records for the previous 3 months stored on the memory of a blood glucose meter
- the license application process cannot start until an applicant's condition has been stable for at least 1 month
- applicants will be asked to sign an undertaking to comply with the directions of the healthcare professionals treating their diabetes and to report any significant change in their condition to the DVLA and the Licensing Authority immediately.

### **Continuous glucose monitoring systems (CGMS)**

Because these systems measure interstitial glucose, drivers must also monitor blood glucose levels as outlined immediately above.

Drivers may be required to provide evidence of the above to the Licensing Authority.

# Appendix 6:

## Code of Good Conduct for Licensed Drivers

This Code of Good Conduct should be read in conjunction with the other statutory and policy requirements set out in this document. Ordinarily, but without prejudice to any other disciplinary procedures detailed in this Policy, breaches of the Code of Good Conduct will be dealt with by use of the Penalty Points System contained within Appendix 10.

### 1. Responsibility to the Trade

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

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

### 2. Responsibility to the Public

2.1. Licence holders shall:

- maintain their vehicles in a safe and satisfactory condition at all times;
- keep their vehicles clean and suitable for hire to the public at all times;
- attend punctually when undertaking pre-booked hiring;
- assist, where necessary, passenger's ingress to and egress from vehicles;
- offer passengers reasonable assistance with luggage;
- behave in a professional and respectful manner at all times

### 3. Public Safeguarding and Child Sexual Exploitation

3.1. Licensed holders provide a public service and have a duty of care to all passengers. They also have a moral and social responsibility to report concerns about someone who is vulnerable. Should a licenced holder have any concern about the vulnerability of a child they must report this immediately to

- Kent Police on 101 quoting 'Operation Willow' or
- Call the 'Say something helpline' anonymously on 116 000

***Should a licence holder fail to report a concern, they will be investigated and may have their licence revoked or suspended***

## 4. Responsibility to Residents

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

- not sound the vehicles' horn illegally;
- keep the volume of all audio equipment and two way radios to a minimum;
- switch off the engine if required to wait;
- take whatever additional action is necessary to avoid disturbance to residents in the neighbourhood.
- at hackney carriage ranks/bays in addition to the requirements above:
  - rank/queue in an orderly manner and proceed along the rank/bay in order and promptly;
  - remain in the vehicle.
- at private hire offices:
  - not allow volume of all audio equipment and two-way radios to unduly disturb residents of the neighbourhood;
  - take wherever additional action is necessary to avoid disturbance to residents of the neighbourhood, which might arise from the conduct of their business.

## 5. General

5.1. Drivers shall:

- pay attention to personal hygiene and dress, so as to present a professional image to the public;
- be polite, helpful and fair to passengers;
- drive with care and due consideration for other road users and pedestrians and, shall not use a hand held mobile phone whilst driving;
- obey all Traffic Regulation Orders and directions at all times;
- not smoke at any time when inside the vehicle;
- not consume alcohol\* at any time whilst, driving or being in charge of a hackney carriage or private hire vehicle;
- not drive while having misused legal drugs;
- not drive while having used illegal drugs\*;
- fulfil their responsibility to ensure compliance with legislation regarding the length of working hours;
- not eat in the vehicle in the presence of customers; and
- where a customer has, during the course of a hiring, cause to make a complaint, the driver must give enough information to enable him to identify the driver (badge number), vehicle details including the plate and/or registration number in the event that it is their wish to report the matter to the Council. It is an offence not to provide this information.

**In the event of a criminal investigation, it is expected that full cooperation is provided to the Police to enable them to fully investigate the matter. Failure to do so may result in the police submitting a formal complaint to the Council which may result in their hackney carriage/private hire drivers licence being suspended or revoked.**

## **6. Disciplinary Hearings**

6.1. Drivers should be aware of the Council's powers to suspend, revoke, or refuse to renew a driver's licence, where:

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

6.2. Details of the workings of the disciplinary hearings are set out in Appendix 11 of this Policy.

**\*ANY AMOUNT OF ALCOHOL OR DRUGS CAN AFFECT A DRIVER'S JUDGEMENT**

# Appendix 7:

## Dress Code for Licensed Drivers

### 1. Objectives

- 1.1. The Council is committed to encouraging the professional image of the trade. The Council considers that drivers should conform to a minimum standard of dress, as set out below, in order to:
  - raise and maintain the profile of the licensed trade;
  - promote confidence amongst members of the public to ensure passengers feel comfortable when using licensed vehicles;
  - promote public safety by ensuring the safe operation of licensed vehicles at all times and ensuring that licensing drivers are readily identifiable
- 1.2. The Council does not impose such standards by way of conditions to any licence. It is expected, however, that such standards will be maintained at all times.
- 1.3. Ordinarily, but without prejudice to any other disciplinary procedures detailed in this Policy, breaches of the Dress Code for Licensed Drivers will be dealt with by use of the Penalty Points System contained within Appendix 10.

### 2. Unacceptable Standards of Dress within this Code

- 2.1. The following are deemed to be unacceptable:
  - Bare chests;
  - Clothing or footwear which is unclean or damaged;
  - Clothing printed with words, logo or graphics which might offend;
  - Sports shirts e.g. football, or rugby or cricket tops or track suits;
  - Footwear that prevents the safe operation of the licensed vehicle;
  - Headgear that partially or completely conceals the face or the identity of the licensed driver e.g. baseball caps;
  - Shorts, other than smart tailored shorts

### 3. General

- 3.1. The above lists are not exhaustive and Authorised Officers of the Council will assess whether standards of dress are acceptable or not. In such instances, the Officer's decision will have effect as though it were included in the above lists and the licensed drivers will be required to comply accordingly.

# Appendix 8:

## Private Hire Driver's Licence Conditions

### 1. Conduct of Driver

- 1.1. The holder of a hackney carriage/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 Good Conduct set in Appendix 6.
- 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 drivers 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. On termination or surrender of a drivers' licence, the driver shall return the badge to the Council immediately.
- 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, entering or alighting from, the vehicle.
- 1.7. Where a customer has, during the course of a hiring, cause to make a complaint, the driver **must** give enough information to enable him to identify the driver (badge number), vehicle details including the plate and/or registration number in the event that it is their wish to report the matter to the Council.
- 1.8. 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.
- 1.9. The driver who has agreed to, or has been hired to, be in attendance with the vehicle at an appointed time and place shall, unless delayed or prevented by some sufficient cause, punctually attend with such vehicle at such appointed time and place.
- 1.10. The driver, when hired to drive to a particular destination, shall proceed to that destination by either the shortest available route, or the believed cheapest route considering all known factors such as road works, delays, etc.
- 1.11. 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.

- 1.12. The driver shall convey a reasonable amount of luggage and afford reasonable assistance in loading and unloading luggage.
- 1.13. 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.
- 1.14. The vehicle shall be presented in a clean and tidy condition for each journey.
- 1.15. The private hire vehicle must only be driven with the consent of the proprietor of the vehicle.
- 1.16. The driver must comply with any hirer's request not to smoke, drink or eat in the vehicle, or 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 person, whether inside or outside the vehicle.
- 1.18. The driver shall not operate the horn as a means of signalling that the vehicle has arrived.
- 1.19. The driver must not cause or permit the vehicle to stand on a public road, on a hackney carriage rank or bay, 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 hands-free operation. Ideally this should be a hard wired, professionally fitted facility within the vehicle.

## **2. Fitness of Driver**

- 2.1. The driver of a vehicle must at any time, or at such intervals as the Council may reasonably require, produce a certificate issued by the drivers own General Practitioner (GP) to the effect that he is, or continues to be, physically fit to be a driver.
- 2.2. Whether or not such a Certificate is produced, the driver must, if required by the Council at any time, undergo a medical examination with his own General Practitioner (GP). This will be at the applicant's own expense.
- 2.3. The driver must cease driving any private hire vehicle and contact the Council immediately if they know of any medical condition which may affect their:
  - driving ability; or 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 an 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 private hire vehicle is fitted with a taximeter, then the driver of a private hire must:
  - bring the meter into operation at the commencement of the journey unless, the hirer expresses at the commencement of the journey his desire to engage by time, and bring the machinery of the taximeter into action by moving the said key, flag or other device, so that the work 'HIRED' is legible on the face of the taximeter before beginning a journey, and keep the machinery of the taximeter in action until the termination of the hiring.
  - 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.
  - cause the dial of the taximeter to be kept properly illuminated throughout any part of a hiring which is during the hours of darkness as defined for the purpose of the Road Traffic Act 1972, and also at any other time at the request of the hirer.
  - not demand from any hirer of a private hire vehicle a fare in excess of any previously agreed for that hiring between the hirer and the operator or, if the vehicle is fitted with a fare meter, the fare shown on the face of the taximeter
- 3.4. In the event of a journey commencing in, but ending outside the Borough of Tunbridge Wells, there may be charged, for the journey, such fare or rate (if any) as was agreed before the hiring was effected. If no such agreement was made then the fare to be charged should be no greater than that determined by the taximeter.

### 4. Duties of Licence Holder

- 4.1. Any change affecting this 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.
- 4.2. The private hire driver's licence must be made available for inspection, on request, by any Authorised Officer of the Council or any Police Officer.
- 4.3. 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.

- 4.4. The private hire driver's licence must be presented to the proprietor concerned at the beginning of his employment.
- 4.5. 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 permanently ceases, the licence expires and is not renewed, or where the licence is suspended or revoked.
- 4.6. The driver must notify the Council within a period of **seven** days of:
- any conviction for an offence; or
  - any receipt of a fixed penalty imposed on him
- whilst the licence is in force.

## 5. Lost Property

- 5.1. A driver of a licensed shall immediately after the termination of any hiring or as soon as practicable, search the vehicle for any property which may have been accidentally left therein.
- 5.2. If any property is found therein by any person or the driver, the driver shall take it, as soon as possible, and in any event within forty eight hours, if not already claimed by or behalf of its owner, to the offices of the Licensing Department and leave in the custody of a designated Licensing Officer.

## 6. Accident Reporting

- 6.1. In accordance with Section 50(3) of the Local Government (Miscellaneous Provisions) Act 1976, any accident to a private hire vehicle causing damage materially affecting:
- the safety, performance or appearance of the vehicle; or
  - the comfort or convenience of the passengers
- must be reported to the Council as soon as reasonably practicable, and in any case within **seventy-two** hours of the occurrence thereof.

## 7. The Carriage of Animals

- 7.1. A driver must not carry any animal in a private hire vehicle whilst it is being used as a private hire vehicle, save for exemptions detailed below in para 7.3 & 7.4 of the Policy.
- 7.2. Animals in the custody of passengers may be carried, at the driver's discretion, provided they are restrained in a safe manner.
- 7.3. A driver must carry bona fide assistance dogs when required. Bona fide 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.

- 7.4. 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 from the driver's own registered General Practitioner (GP), a certificate of exemption will be issued to the driver and the nominated vehicle. This must be carried in the vehicle at all times the driver is working. Unless the certificate of exemption is available in the vehicle, the exemption will not apply.
- 7.5. If a driver fails to carry out the duties imposed upon them under the Equality Act 2010 without the appropriate exemptions they will be subject to appropriate enforcement action by the Council.

## **8. Written Receipts**

- 8.1. The driver shall if requested by the hirer of the private hire vehicle, provide the hirer with a written receipt for the fare paid.

## **9. Copy of Conditions**

- 9.1. The driver shall at all times when driving a private hire vehicle carry with him a copy of these conditions and the Vehicle Licence Conditions and shall make them available for inspection by the hirer or any other passenger on request

## **10. Deposit of Licence**

- 10.1. If the driver is permitted or employed to drive a private hire vehicle of which the proprietor or someone other than himself, he shall before commencing to drive that vehicle deposit this licence with that proprietor for retention by him until such time as the driver ceases to be permitted or employed to drive the vehicle

## **11. Change of Address**

- 11.1. The driver shall notify the Council in writing of any change of his address during the period of the licence within **seven** days of such change taking place.

## **12. Notification of Convictions**

- 12.1. The driver shall within **seven** days disclose to the Council in writing details of any conviction, including Cautions, imposed on him during the period of the licence. A driver who is required to appear before the Sub-Committee following conviction for a driving offence, may be subject to a referral to one of the Council's nominated Driving Standards Assessment centres with a requirement to pass the Assessment test again. Failure to complete and pass the test may result in the driver having their drivers licence revoked.

## **13. Use of Television Receiving Equipment**

- 13.1. No person shall use television receiving apparatus in a motor vehicle under circumstances or in a position where it might cause distraction to the driver of any other vehicle on the road.

## **14. Return of Driver's Badge**

- 14.1. The licence holder shall upon the expiry (without immediate renewal), revocation or suspension of his licence, forthwith return to the Council the driver's badge issued to him by the Council when granting his licence

## **15. Medical Fitness**

- 15.1. Unless restricted to a shorter period for medical reasons, all drivers will be required to produce a Group 2 Medical Certificate at renewal every three years. Failure to comply with this condition will result in revocation of the licence.

## **16. DVLA Driving Licence Checks**

- 16.1. All licensed drivers will be subject to a DVLA check at every renewal. Where a licence holder refuses to provide the Authority with the 8 digit 'check code', the licence will not be renewed.

## **17. Criminal Record Checks**

- 17.1. All licensed drivers are required to submit an Enhanced Certificate issued by the Disclosure and Barring Service (DBS) every three years, or provide the relevant information to the licensing department to enable officers to undertake an online check.

## **18. Wheelchair Accessible Vehicles**

- 18.1. All drivers of wheelchair accessible vehicles must:

- be fully conversant with the correct method of operation of all ramps, lifts and wheelchair restraints fitted to the vehicle.
- before any movements of the vehicle takes place, ensure that all wheelchairs are firmly secured to the vehicle using an approved restraining system, and the brakes of the wheelchair have been applied.
- ensure that any wheelchairs, equipment and passengers are carried in such a manner that no danger is likely to be caused to those passengers, nor to anyone else, in accordance with the regulations detailed in Section 100 of the Road Vehicles (Construction and Use) Regulations 1986
- have successfully completed the practical element regarding the loading /securing and unloading of passengers in wheelchairs as part of their Driver Standard Assessment Test delivered by one of the Council's approved providers

# Appendix 9: Private Hire Operator's Licence Conditions

## 1. Standards of Service

### 1.1. The Operator shall:

- provide a prompt, efficient and reliable service to members of the public at all reasonable times;
- ensure that their office staff act in a civil and courteous manner at all times;
- ensure that when a vehicle has been hired, it arrives punctually at the appointed place, unless delayed by unforeseen circumstances;
- ensure that premises provided for the purpose of booking or waiting are kept clean and are adequately lit, heated and ventilated;
- ensure that the use of the premises which is used for the running of his business had no detrimental effect on the neighbourhood;
- ensure that any waiting area provided has adequate seating facilities and that telephone facilities are in good working order;
- fulfil his responsibilities to ensure compliance with legislation regarding the length of working hours;
- Ensure that any telephone facilities and radio equipment provided are maintained in a sound condition and any defects are repaired promptly.

## 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. A basic DBS check is required for an Operator and all staff that will be taking bookings (unless already a licensed driver).
- 2.3. A register of staff that will take bookings or dispatch vehicles must be kept and the Operator is required to evidence, if required, to an Authorised Officer that they have had sight of a basic DBS check on all individuals listed therein.
- 2.4. Policy for ex-offenders  
An Operator is required to provide on application, a copy of their policy for employing ex-offenders in roles of 'Booking and Dispatch Staff'.
- 2.5. Bookings  
Prior to each journey, the operator shall enter the following particulars, on the same calendar day, of every booking of a private hire vehicle accepted, pursuant to Section 56(2) of the Local Government (Miscellaneous Provisions) Act 1976, namely the:

- date & time of the booking;
- name and address of the passenger/hirer;
- how the booking was made (e.g. telephone, personal call etc.)
- time of pick-up;
- address of the point of pick-up;
- destination;
- the name of the driver;
- time at which a driver was allocated the booking or if sub-contracted, time and whom the booking was sub-contracted to;
- licence plate number or registration of the vehicle allocated;
- fare (if agreed between the operator and hirer at the time of booking).

2.6. Section 55A of the Local Government (Miscellaneous Provisions) Act 1976, inserted by the Deregulation Act 2015 permits Operators licensed by the Council to sub-contract a private hire bookings to another operator licensed by the Council or to any other licensed private hire operator holding a private hire licence granted by another local authority.

2.7. Operators that accept a booking remain legally responsible for that booking even if they sub-contract the booking to another Operator and should record the booking as normal and the fact that it was sub-contracted.

2.8. Operators are required to evidence comparable protections are applied by other companies to which they outsource booking and dispatch functions.

#### 2.9. Vehicles

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

- type, make model, colour and engine size of vehicles;
- year when the vehicle was first licensed for private hire;
- vehicle registration numbers;
- number of seats for passengers;
- owners/proprietor of the vehicles;
- insurance details of vehicles;
- method of charging, i.e. whether or not a meter is fitted;
- private hire vehicle plate numbers;
- licence plate number and the driver of such vehicles, together with any radio call sign used

#### 2.10. Drivers

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

- as to the drivers of the vehicles, and their call signs;
- of when any new driver begins service;
- of when any driver's service ceases;
- of any change of address of any driver in service;
- of 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);
- of expiry dates of driver's badges and vehicle licences.

2.11. The operator shall ensure that every driver engaged by him has obtained a hackney carriage/private hire drivers licence from the same licensing Authority which issued the private hire operators licence.

2.12. The operator has used their best endeavours to ensure that all drivers have a badge issued by the Council and that the drivers wear the badge at all time whilst available for hire.

2.13. All records maintained by the operator shall be kept for at least twelve months after the date of last entry and shall be promptly produced, in a format for inspection, on request, by any Authorised Officer of the Council or any Police Officer.

### 3. Complaints

3.1. The operator shall notify the Council in writing of any complaints concerning a contract for hire arising from his business that he feels it is prudent to do so, for example for his own protection against frivolous or vexatious complaints. Such notification must include the action taken, or proposed, as a result of the complaint. All complaints shall be kept by the operators for a period of at least twelve months after the date of last entry and shall be promptly produced, in a format for inspection, on request, by any Authorised Officer of the Council or any Police Officer.

3.2. The operator must immediately i.e. **next working day**, notify the Council's licensing officer in writing of any complaints of a serious nature concerning a contract for hire or purported contract for hire relating to or arising from his business, and of the action (if any) which the operator has taken or proposes to take in respect thereof. Complaints of a serious nature include allegations of sexual or violent misconduct.

### 4. Change of Details

4.1. The operator shall notify the Council in writing of any change affecting his licence including change of personal or business address which takes place during the period of duration of the licence. Such notice shall be given as soon as reasonably practicable and, in any case, not later than **14** days.

## **5. Disclosure of Convictions**

- 5.1. The operator shall, within seven days of conviction, notify the Council in writing of any conviction, or fixed penalty, imposed on him during the period of duration of his operators' licence.
- 5.2. If an operator is a company or partnership, this requirement shall equally apply if any of the directors or partners receives a conviction or fixed penalty.

## **6. Insurance**

- 6.1. 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.
- 6.2. If the private hire operator has premises to which the public have access, in connection with the hiring of vehicles, he shall ensure that there is public liability insurance in force, which indemnifies him against any claim for loss, damage or personal injury by any person using those premises.

## **7. Private Hire Driver's Licences**

- 7.1. The operator shall ensure that every driver engaged by him has obtained a private hire driver's licence from the same Licensing Authority which issued the private hire operator's licence. The operator shall use his best endeavours to ensure that all drivers have a badge issued by the Council and that the drivers wear the badge at all times whilst available for hire.

## **8. Tinted Windows**

- 8.1. If a Private Hire Vehicle with tinted windows which has less than 50% of light transmission through any of them, is issued for the carriage of children or young persons without adult supervision, then it is the responsibility of the Operator to ensure that, when the booking for the vehicle is taken, the person accepting the booking has sought the knowledge and consent whether verbal or written and is recorded in the Operators Bookings see Appendix 9, as required by these licence conditions.

## **9. Display of Terms and Conditions**

- 9.1. The operator shall, at all times, keep a copy of these conditions at any premises used by him for private hire business and shall make the same available for inspection by fare-paying passengers.

## **10. Inspection of Licence**

- 10.1. The private hire operator's licence shall be available for inspection on request by any Authorised Officer or any Police Officer



## **11. Advertisement of Business**

11.1. The operator must not use in any advertisement of his business the words "Hackney carriage" "Taxi" or "Cab" if licensed Hackney Carriages cannot be supplied.

## **12. Surrender of Licence**

12.1. If at any time during the period of the licence the operator for any reason does not wish to retain the licence (which is not transferable) or if at any time during the period of the licence it is suspended or revoked, he must immediately surrender and return the licence to the Council.

## **13. Notifications of Accidents**

13.1. If any vehicle (licensed by the Council) which is used by the Operator is involved in an accident, the Operator must notify the Council within **72 hours**

# Appendix 10:

## Penalty Points System

The Penalty Points Scheme will operate as follows:

1. Before penalty points are issued, there must be sufficient evidence to prove, on the balance of probabilities, the offence or breach of licensing requirements. The issuing of penalty points is not a formal sanction in its own right; it is merely an open and transparent method of how a Private Hire Driver, Private Hire Operator or Hackney Carriage Driver, "Licence Holder" will be assessed in terms of the 'fit and proper' person test. The points system is predominately an internal management tool for ensuring that licence holders who repeatedly contravene regulation and/or this Policy are assessed. The licence holder's penalty offences will be re-considered in the light of any mitigating circumstances the licence holder wishes to be considered.
2. A maximum of twelve penalty points will be issued on any one occasion. This means that if on any occasion when it is proposed to impose penalty points, a licence holder has committed more than one offence or breach of licence conditions, no more than twelve points will be imposed.
3. Points issued to a licence holder will be confirmed in writing within ten working days from the discovery of the contravention or the conclusion of an investigation into a complaint.
4. When issued, the penalty points will remain "live" for a period of two years from the date they are imposed so that only points accumulated in a rolling twenty four month period will be taken into account.
5. If a licence holder accumulates twelve or more points within a period of two years from the date they are imposed, he will be required to attend a Committee meeting where the appropriate action to be taken in accordance with this Policy will be decided.
6. Where a licence holder is brought before the Sub-Committee, the options available to it will include suspension or revocation of the drivers licence, where appropriate. If the Committee does not feel that the matter warrants suspension or revocation of the licence, other options include extending the period for which the points are to remain "live" or the issue of a written warning to the driver as to his future conduct.
7. The length of the period of suspension of a licence will be dependant on the nature of the breaches of the legislation or the requirements of this Policy and the compliance history of the licence holder.
8. More than one accumulation of penalty points in excess of the twelve point threshold in any three year period will normally result in the Sub-Committee revoking a licence where they believe the person not to be a 'fit and proper' person.
9. Once the matter has been dealt with:

- points will be removed if a suspension or revocation is imposed;
- If a written warning is given the points will remain live for the normal two year period;
- If the live period is extended the points will remain live for the time determined by the Sub-Committee.

10. If, a licence holder receives a Penalty Points Notice, which he feels was not warranted, he may appeal. For example, he may feel that he had a reasonable excuse why the infringement took place, or he may disagree that it took place at all or he may not be the person involved. In such a case, the Senior Licensing Officer should be informed in writing within 21 days of the date of receipt of the points, stating why he considers the points are not appropriate. The matter will then be put to the Licensing Sub-Committee for decision. The Sub-Committee are at liberty to impose more penalty points than stipulated in the Policy as they see fit.
11. A licence holder has the right to be represented at any meeting either legally or otherwise, and to state any mitigating circumstances he deems necessary.
12. Even though penalty points have been issued by an Authorised Officer of the Council, if it is subsequently found that the licence holder had previously been issued with penalty points, or had been formally cautioned, for similar offences, the Council reserve the right to cancel the penalty points and deal with the matter in accordance with the Tunbridge Wells Borough Council Enforcement and Prosecution Policy.
13. Licensees retain the normal rights of appeal to the Courts when a licence is revoked.
14. Following a revocation (due to the accumulation of penalty points), a new licence application will not usually be entertained by the Council for a minimum period of six months.
15. 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

## Penalty Points Relating to Offences in respect of Legislation

### Town Police Clauses Act 1847

Section	Offence	Points
40	Giving false information on a hackney carriage licence application	12
44	Failure to notify change of address of a hackney carriage licence	2
45	Plying for hire without a hackney carriage licence	12
47	Driving a hackney carriage without a hackney carriage driver's licence	12
47	Lending or parting with a hackney carriage driver's licence	4
47	Proprietor employing an unlicensed hackney carriage driver	12
48	Failure of a proprietor to hold a hackney carriage driver's licence	6
52	Failure to display a hackney carriage plate	4
53	Refusal to take a fare without a reasonable excuse	8
54	Charging more than the agreed fare	12
55	Obtaining more than the legal fare (including failure to refund)	12
56	Travelling less than the lawful distance for an agreed fare	12
57	Failure to wait after a deposit to wait has been paid	12
58	Charging more than the legal fare	12
59	Carrying persons other than the hirer without the hirer's consent	8
60	Driving a hackney carriage without the proprietor's consent	6
60	Allowing a person to drive a hackney carriage without the proprietor's consent	4
62	Driver leaving a hackney carriage unattended	2
64	Hackney carriage driver obstructing other hackney carriages	3

## Local Government (Miscellaneous Provisions) Act 1976

Section	Offence	Points
46(1)(a)	Using an unlicensed private hire vehicle	12
46(1)(b)	Driving a private hire vehicle without a private hire drivers' licence	12
46(1)(c)	Proprietor of a private hire vehicle using an unlicensed driver	12
46(1)(d)	Operating a private hire vehicle without a private hire operator's licence	12
46(1)(e)	Operating a vehicle as a private hire vehicle when the vehicle is not licensed as a private hire vehicle.	12
46(1)(e)	Operating a private hire vehicle when the driver is not licensed as a private hire operator.	12
48(6)	Failure to display a private hire vehicle plate	4
49	Failure to notify the transfer of a vehicle	3
50(1)	Failure to present a hackney carriage or private hire vehicle for inspection upon request	8
50(2)	Failure to inform the Council where a hackney carriage or private hire vehicle is stored, if requested	3
50(3)	Failure to report an accident to the Council within seventy two hours	6
50(4)	Failure to produce the vehicle licence and insurance on request	4
53(3)	Failure to produce a driver's licence upon request	4
54(2)	Failure to wear a private hire driver's badge	4
56(2)	Failure of a private hire operator to keep proper records of all bookings, or failure to produce them on request of an Authorised Officer of the Council or a Police Officer (also breach of conditions attached to licence – see below)	6
56(3)	Failure of a private hire operator to keep records of all private hire vehicles, or failure to produce them on request of an Authorised Officer of the Council or a Police Officer (also breach of conditions attached to licence – see below)	6
56(4)	Failure of a private hire operator to produce his licence on request	4
57	Making a false statement or withholding information to obtain a hackney carriage or private hire driver's licence	12

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	6
61(2)	Failure to surrender a driver's licence after suspension, revocation, or refusal to renew	6
64	Permitting any vehicle other than a hackney carriage to wait on a hackney carriage rank	6
66	Charging more than the meter fare for a journey ending outside the District, without prior agreement	12
67	Charging more than the meter fare when hackney carriage is used as a private hire vehicle	12
69	Unnecessarily prolonging a journey	12
71	Interfering with a taximeter with intent to mislead	12
73(1)(a)	Obstruction of an Authorised Officer of the Council or a Police Officer	12
73(1)(b)	Failure to comply with a requirement of an Authorised Officer or Police Officer	12
73(1)(c)	Failure to give information or assistance to an Authorised Officer or Police Officer	12

## Transport Act 1980

Section	Offence	Points
64(2)(a)	Driving a vehicle with a sign above its roof which consists of or includes the word "taxi" or "cab" or 'hire', or any word similar meaning or appearance to any of those words whether alone or part of another word	10
64(2)(b)	Causes or permits a vehicle to have a sign above its roof which consists of or includes the word "taxi" or "cab" or 'hire', or any word similar meaning or appearance to any of those words whether alone or part of another word	10

## Equality Act 2010

Section	Offence	Points
165	<p><b>Passengers in Wheelchairs</b></p> <p>A driver of a designated taxi or designated private hire vehicle commits an offence by failing to comply with a duty imposed on the driver by this section.</p>	12
168	<p><b>Assistance dogs in taxis – the driver must</b></p> <p>a) Carry the disabled person’s dog and allow it to remain with that person;</p> <p>b) Not charge an additional cost for the carrying of an assistance dog in a hackney carriage.</p>	12
169	<p><b>Assistance dogs in taxis – Exemption Certificates</b></p> <p>The driver of a designated Taxi commits an offence by failing to comply with a duty imposed on the driver by this section. Unless he/she has the benefit of a medical exemption issued by this authority.</p>	12
170	<p><b>Assistance dogs in Private Hire Vehicles</b></p> <p>(1) The operator of a private hire vehicle commits an offence by failing or refusing to accept a booking for the vehicle.</p> <p>(2) The operator commits an offence by making an additional charge for carrying an assistance dog which is accompanying a disabled person.</p> <p>(3) The driver of a private hire vehicle commits an offence by failing or refusing to carry out a booking accepted by the operator</p>	12
171	<p><b>Assistance dogs in Private Hire Vehicles: Exemption certificates</b></p> <p>The driver of a designated Private Hire Vehicle commits an offence by failing to comply with a duty imposed on the driver by this section. Unless he/she has the benefit of a medical exemption issued by this authority.</p>	12



## Hackney Carriage and Private Hire Licensing Policy

Section or Appendix	Breach of Policy requirement	Points
	Failure to adhere to the Dress Code for Licensed Drivers	2
	Failure to wear a driver's badge	4
	Failure to adhere to the Code of Good conduct for Licensed Drivers.	4
	Failure to ensure the safety of passengers	4
	Fighting and/or aggressive behaviour towards the public or other licensed drivers	12
	Concealing or defacing a vehicle licence plate	4
	Failure to attend on time for a pre-arranged booking without reasonable cause	3
	Conveying a greater number of passengers than permitted	6
	Failure to give reasonable assistance with passenger's luggage	3
	Private hire vehicle soliciting for hire or accepting a fare that is not pre-booked	12
	Operating a vehicle that is not clean and tidy	2
	Driving without consent of the proprietor	5
	Drinking or eating in the vehicle whilst carrying passengers	3
	Smoking in a licensed vehicle at any time	4
	Cause excessive noise from any radio or sound-reproducing equipment	2
	Operating the horn as a means of signalling that a vehicle has arrived	3
	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
	Using a non-hands-free mobile telephone whilst driving	4
	Failure to advise of a relevant medical condition	8
	Failure to provide a receipt for a fare when requested	2
	Failure to switch off engine when stationary	3

	Failure to operate the meter from the commencement of the journey and/or charging more than the fixed charge for hire of hackney carriages	12
	Failure to notify the Council of any amendment to the details of a licence within fourteen days	3
	Failure to produce a licence upon request	4
	Failure to notify within seven days of starting or terminating employment, the name and address of the proprietor and term of employment	3
	Failure to show a private hire driver's licence to the private hire operator at the commencement of employment	2
	Failure to surrender a driver's licence, badge, or plate upon request	6
	Failure of a licence holder to disclose convictions within seven days of conviction	8
	Failure to take found property to the Police within forty-eight hours of finding	3
	Failure to report an accident within seventy-two hours	3
	Carrying an animal other than one belonging to the passenger(s)	2
	Carrying an animal not safely restrained	3
	Failure to comply with the requirements for the safe carrying of a wheelchair	6
	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
	Failure to carry an approved fire extinguisher	3
	Failure to carry an approved first aid kit	3
	Operating a vehicle which is not maintained in a clean and/or safe condition internally or externally	3
	Modifying a vehicle without the consent of the Council	3
	Failure to display in the prescribed manner or maintain external licence plate & or door stickers as issued by the Council	4
	Hackney carriage vehicle signage not in accordance with the Council's requirements	4
	Affixing or displaying a roof sign on a private hire vehicle	4

	Displaying a sign or advertisement on a licensed vehicle contrary to the Policy requirements or which has not been approved by the Council	4
	Carrying radio equipment or similar devices not in accordance with Council requirements	2
	Taximeter does not conform to the Council's requirements	6
	Trailer does not comply with the Council's requirements	3
	Operating or driving a vehicle which does not comply with the Council's Policy requirements	6
	Driving with no insurance or inadequate insurance for the vehicle	12
	Allowing a vehicle to be used for hire by a person who does not hold a current driver's licence	8
	Operating a vehicle which does not comply with the Council's requirements in relation to tinted windows	4
	Permitting the vehicle to be used for any illegal or immoral purposes	12
	<b>Breach of Conditions attached to Operator's Licence</b> <b>Appendix 9</b>	
	Failure of a private hire operator to provide a prompt, efficient and reliable service	3
	Failure of a private hire operator to ensure that office staff act in a civil and courteous manner at all times	3
	Failure to ensure that premises provided for the purpose of booking or waiting are kept clean and are adequately lit, heated, and ventilated	3
	Failure of a private hire operator to ensure that vehicles attend bookings punctually	4
	Failure of a private hire operator to keep the operating premises in accordance with the Council's requirements	3
	Failure to act properly upon the receipt of a complaint or to notify immediately the Licensing Officer	4
	Failure to notify the Council of any changes, including change of address from where the business operates within 14 days	3

	Failure to ensure that any telephone facilities and radio equipment provided are maintained in a sound condition and any defects are repaired promptly	
	Failure of a private hire operator to ensure that all vehicles operated by him are adequately insured	6
	Failure to disclose in writing within seven days details of any conviction or police Caution imposed on him to the licensing section	12
	Failure to notify the Council of any vehicle used by the Operator which is involved in an accident within 72 hours s.50(3) of the Local Government (Miscellaneous Provisions) Act 1976, See above	6
	Failure to maintain or produce records of private hire bookings, vehicles, drivers, or other documents required to be kept or produced in accordance with s.56(2) &(3) of the Local Government (Miscellaneous Provisions) Act 1976, See above	6
	Failure of a private hire operator to keep and display public liability insurance for the operating premises if the public are allowed access	4
	Failure of a private hire operator to ensure that every driver employed by him has a private hire licence and badge	4
	Failure of a private hire operator to keep a copy of the Council's Hackney Carriage and Private Hire Licensing Policy to be made available for inspection by passengers upon request	4
	Failure to make the Operator's licence available for inspection, in accordance with s.56 of the Local Government (Miscellaneous Provisions) Act 1976, See above	4
	Failure to ensure the operator fulfils his responsibilities (where appropriate) to ensure compliance with legislation regarding the length of working hours	4
	Any other contravention of the Policy not covered above	2-12

# Appendix 11: Hackney Carriage and Private Hire Enforcement Policy and Practice

## 1. Enforcement Policy Statement

- 1.1. It is the policy of the Council to ensure that all drivers, vehicles, and operators are licensed correctly and carry out their trade in accordance with both the relevant legislation and the Council's Hackney Carriage and Private Hire Licensing Policy. All enforcement action is carried out in compliance with the Tunbridge Wells Borough Council Enforcement and Prosecution Policy, together with the Licensing Compliance and Enforcement Policy, both of which are available on the Council's website:

[Licensing Compliance and Enforcement Policy](#)

[Enforcement and prosecution policy](#)

- 1.2. Primarily, all enforcement action will be based upon the seriousness of the breach and the possible consequences arising from it. Enforcement action will not normally, therefore, constitute a punitive response to a minor technical contravention of legislation. Repeated minor technical contraventions, however, will be subject to appropriate action.
- 1.3. Specific advice on the issue of licences and enforcement action is contained elsewhere in the Council's Hackney Carriage and Private Hire Licensing Policy, which sets out the general principals to be followed in taking enforcement decisions.
- 1.4. Authorised officers, when making enforcement decisions, will adhere to the requirements and guidance contained within this policy. Any departure from the policy must be capable of justification, following careful consideration of any exceptional circumstances, and authorised by the Licensing Committee.
- 1.5. Authorised officers must be fully conversant with the requirements of the Policy and appropriately trained.
- 1.6. Officers will be authorised by the Head of Head of Housing, Health and Environment to take enforcement actions relevant and appropriate to their status. All enforcement action will be undertaken by an Authorised Officer of the appropriate status.

## 2. Enforcement Options

- 2.1. The Council consider consistency of approach in all enforcement action relating to hackney carriage and private hire licensing to be essential. To achieve and maintain consistency, it is vital that the requirements of this Policy are always considered and read in conjunction with Tunbridge Wells Borough Council

Enforcement and Prosecution Policy together with the Licensing Compliance and Enforcement Policy:

[Licensing Compliance and Enforcement Policy](#)

[Enforcement and prosecution policy](#)

2.2. Enforcement action must always be consistent, proportionate and reasonable whilst ensuring that the public receive adequate protection. Determination of enforcement action may consider, but will not be limited to, the

- seriousness of any offence(s);
- driver's or operators past history;
- consequence of non-compliance;
- likely effectiveness of the various enforcement options;
- risk to the public

2.3. Having considered all relevant information and evidence, the choices for enforcement action are to: (Driver, Vehicle, or Operator Licence Applications)

- grant licence subject to the Council's Hackney Carriage and Private Hire Licensing Policy requirements;
- refuse to grant or renew a licence

2.4. Enforcement action

- take no action;
- take informal action (verbal warnings, written warnings, or penalty points);
- use statutory notices, (s68 stop notices, etc.);
- suspend a licence;
- revoke a licence;
- issue formal cautions;
- prosecute;
- pursue a combination of any of the above

2.5. 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 requests for action, and the use of letters in accordance with the Tunbridge Wells Borough Council Enforcement and Prosecution Policy and the Licensing Compliance and Enforcement Policy.

[Licensing Compliance and Enforcement Policy](#)

[Enforcement and prosecution policy](#)

3.2. Such informal enforcement action may be appropriate in, but not limited to, 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 future compliance;
- 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 Licensing Sub-Committee/ Head of Housing, Health and Environment**

4.1. An offending individual or company may be required to attend a meeting with the Head of Housing, Health and Environment to answer allegations of breaches of relevant legislation, Byelaws or requirements of this Policy.

4.2. Current licence holders who report convictions or breach relevant legislation during the period of their licence may be required to attend a meeting with the Licensing Committee.

4.3. The Licensing Sub-Committee may decide to:

- take no action;
- issue a written warning;
- require the production of driving licences or others specified documentation at the Council Offices;
- suspend a licence;
- revoke a licence;
- authorise prosecution action;
- take any other appropriate action as deemed necessary

#### **5. Section 68 Notices (Stop Notices)**

5.1. An Authorised Officer of the Council, or a Police Officer, may serve notice in writing for a hackney carriage or private hire vehicle, to be examined at one of the Council's appointed garages at a time specified in the notice. These actions will only be taken when the Officer has reasonable grounds to suspect that the condition of the vehicle or taximeter does not meet the requirements of the Policy or any appropriate road traffic legislation.

5.2. The test for the taximeter will be carried out by the Authorised Officer of the Council at a time to be determined with the Authorised Officer.

- 5.3. An Authorised Officer of the Council or a Police 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.
- 5.4. 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 will remain active.
- 5.5. If the Authorised Officer of the Council or the Police 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 date of issue, the vehicle licence shall be deemed to be revoked.

## **6. Appeals**

- 6.1. Appeals against decisions of the Licensing Committee/ Sub-Committee may be made to the Magistrates Court.
- 6.2. Any notifications of enforcement actions will include written information on how to appeal. This will explain how, where and within what period an appeal may be brought and on what grounds. The notification will also confirm whether or not the enforcement action is suspended pending the outcome of the appeal.

## **7. Prosecution**

- 7.1. The decision to prosecute is a very significant one as it may impact on the licence holder's future employability. Generally, prosecution will be restricted to those circumstances where the law is blatantly disregarded, legitimate requirements of the Council are not complied with and/or there is serious risk to the public.
- 7.2. The circumstances which may warrant prosecution may include, but will not be restricted to, one of more of the following:
  - blatant disregard for legislation or this Policy, particularly where the economic benefits of breaking the law are substantial and provide significant advantage over those licence holders who are law-abiding;
  - when there appears to have been blatant and/or reckless disregard for the safety of passengers or other road users;
  - where there have been repeated breaches of legislation or requirements of this Policy;
  - where a particular type of offence is prevalent;
  - where a particular contravention has caused serious public concern.
- 7.3. When circumstances have been identified which may warrant a prosecution, all relevant evidence and information must be considered to enable a consistent, proportionate and reasonable decision to be reached.



- 7.4. In addition to being satisfied that there is sufficient evidence to provide a realistic prospect of conviction, it must be established that it is in the public's interest to prosecute. The Code for Crown Prosecutors (January 1992), issued by the Crown Prosecution Services, provides guidance which will be considered, including relevant public interest criteria.
- 7.5. When deciding whether to prosecute, any of the following may be taken into consideration:
- the seriousness of the alleged offence;
  - the risk of harm to the public;
  - identifiable victims;
  - failure to comply with a statutory notice;
  - disregard of safety for financial reward;
  - the previous history of the party concerned;
  - repeated offences leading to a history of similar offences;
  - failure to respond positively to previous enforcement action;
  - the ability and willingness of any important witnesses to co-operate;
  - 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, for example, establishing a legal precedent;
  - whether other action, such as issuing a simple caution in accordance with the Home Office Circular 30/2005, would be more appropriate or effective;
  - any other reasonable consideration.

## **8. Simple Cautions**

- 8.1. A caution may be used as an alternative to a prosecution in certain circumstances.
- 8.2. The purpose of a caution is to:
- deal quickly and simply with less serious offences;
  - divert less serious offences away from the Courts;
  - reduce the likelihood of repeat offences.
- 8.3. To safeguard the alleged offender's interests, the following conditions should be fulfilled before a caution is administered:
- there must be evidence of the alleged offender's guilt, sufficient to give a realistic prospect of conviction;
  - the alleged offender must admit the offence;
  - the alleged offender must understand the significance of a simple caution and give informed consent to being cautioned

- 8.4. If there is insufficient evidence to proceed with a prosecution then, by implication, the criteria for the use of a caution is not satisfied. Furthermore, a caution should not be used where the alleged offender does not make a full and frank admission of the offence. It should be noted that there is no legal obligation for any person to accept the offer of a caution.
- 8.5. Where a person declines the offer of a simple caution, it will be necessary to consider taking alternative enforcement action. The Head of Housing, Health and Environment will consider the most appropriate enforcement action.

## **9. Transparency**

- 9.1. Following the receipt of a notification of a conviction, or an adverse vehicle inspection, the licence holder will be informed of the action intended to be taken as soon as reasonably practicable.
- 9.2. 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 as soon as reasonably practicable.
- 9.3. Any written documentation issued 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 section of this Policy contravened and measures which will enable compliance. Where appropriate, it will also indicate alternative means of achieving the same effect; and
  - clearly indicate any recommendations of good practice under an appropriate heading to differentiate them from legal requirements
- 9.4. The clear distinction in all enforcement action between legal requirements and good practice recommendations, even if only given as verbal advice, is of considerable importance.

# Appendix 12:

## Special Event Vehicle Policy

### Additional Conditions Applicable to Vehicles Licensed As Special Event Private Hire Vehicles

These conditions made under the Local Government (Miscellaneous Provisions) Act 1976, are specific to vehicles adapted by lengthening the wheelbase of a standard, factory built vehicle and to other unusual Private Hire Vehicles. They differ from standard conditions for Private Hire Vehicles in recognition of the fact that these vehicles will:

- be easily recognisable by the hirer;
- be heavier and considerably longer than standard cars; and
- may be adapted and converted by someone other than the original manufacturer

### DEFINITION

A Special Event Private Hire vehicle is a private hire vehicle of capable of carrying up to, but not exceeding, eight passengers booked in advance with a driver.

It does not comply with the specifications and conditions of the Policy attached to a private hire vehicle licence by reason of seating arrangements or being left hand drive, or is not considered to be an ordinary passenger vehicle.

For the purposes of the Private Hire Vehicle Licence Conditions the vehicle is classed as a Special Event Private Hire Vehicle.

A Special Event includes such special occasions as outings to the races, transport to parties or proms, hen and stag nights and children's birthday parties.

The vehicle shall not be used for hire or reward except for special events, weddings, or funerals.

## Appendix 13:

# Displaying Licence and Private Hire ‘Pre-book’ Sticker Exemption Requirements

- a) The vehicle to be exempted is of a high quality both in terms of brand and condition.
- b) Vehicles will be larger than the Ford Mondeo class vehicles and will normally be the accepted luxury brands such as Mercedes Benz, BMW, Jaguar, Rolls Royce, Bentley and Lexus. The highest specification executive-type cars from other manufacturers may also be considered. American style stretched vehicles will not normally qualify for exemption.
- c) Drivers will be members of the British Chauffeurs Guild or other driver’s organisation relating to chauffeur-type work which has prescribed quality standards and qualifications for membership. Evidence of membership must be provided and this must be carried in the vehicle at all times the vehicle is plate exempt.
- d) It is not intended that all private hire vehicles should have access to this exemption, but only a small minority operating a specific type of service. To that end it is only considered appropriate to consider the issue of exemption where the requirements (a, b, c, d & e) in this appendix of the policy are met. Therefore to support an application for exemption, evidence of chauffeur work i.e. contract with terms of business, to include dates, times, terms and conditions, prices etc **must be provided** at the time of application and any subsequent renewal. The vehicle is solely used for ‘Contract’ work.
- e) The vehicle must have no visible defects, dents or blemishes to the external bodywork or internal trim.

See out [Taxi Licence Fees page](#) for the current fee for exemption.

# **APPENDIX 14:**

## **National Register of Refusals and Revocations (NR3) Policy**

### **Policy in respect of requests for information, disclosure of information, and use of information as a result of an entry on NR3**

#### **Introduction**

Licensing Authorities are required to satisfy themselves that those holding a Hackney Carriage and Private Hire Vehicle (PHV) drivers licences are 'fit & proper' to do so. This is done firstly during the determination of an application for a licence, and then at any time during the period of holding a licence.

The process of assessing whether an applicant or licensee is 'fit & proper' may vary between authorities but there is widespread consensus on the need to increase consistency and set national standards for the fit and proper test at a suitably high level. This would help prevent individuals who have had a licence revoked by one authority from simply going to another area and securing a licence – assuming the second authority was aware of the earlier revocation.

Currently if drivers do not disclose information about a previous revocation or refusal of a licence, there is often no way for a licensing authority to find this information out. This means that vital intelligence about an applicants' past behaviour is being missed and an individual might be able to obtain a new licence in another area, despite having their licence revoked elsewhere. High profile instances of this happening have undermined public confidence in the safety of hackney carriage and PHVs, and left licensing authorities open to criticism for something that is currently very difficult for them to control.

In response to this issue this council has subscribed to the national register of hackney carriage and PHV driver licence refusals and revocations, the National Register of Refusals and Revocations or NR3. The register will allow licensing authorities to record details of where a hackney carriage or PHV driver's licence has been refused or revoked and allow licensing authorities to check new applicants against the register. This should help to prevent people found to be not fit and proper in one area from securing a licence somewhere else through deception and non-disclosure. For the avoidance of doubt, the NR3 does not extend to vehicle or operator licensing decisions.

#### **Policy**

In this policy, the 'first authority' refers to a licensing authority which made a specific entry onto the National Register of Refusals and Revocations; the 'second authority' refers to a licensing authority which is seeking more detailed information about the entry.

## Overarching principles

This policy covers the use that this authority will make of the ability to access and use information contained on the National Register of Taxi Licence Revocations and Refusals (NR3). The NR3 contains information relating to any refusal to grant, or revocation of a taxi drivers' licence (Throughout this policy reference is made to 'taxi drivers' licence.' This generic term covers a hackney carriage drivers' licence, a private hire drivers' licence and a combined/dual licence). This information is important in the context of a subsequent application to another authority for a drivers' licence by a person who has had their licence refused or revoked in the past.

This authority has signed up to the NR3. This means that when an application for a taxi drivers' licence is refused, or when an existing taxi drivers' licence is revoked, that information will be placed upon the register.

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

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

For the avoidance of doubt, any such data will be kept for a period of no more than 35 days from the date of the service of the written notification of the determination of the application (The appeal period is 21 days from the date on which the written notification of the decision was received by the applicant/licensee. An appeal must be lodged within that time period, and no extension of that period is permissible (see *Stockton-on-Tees Borough Council v Latif [2009] LLR 374*). However, to ensure that the information is available if an appeal is lodged and there is a dispute over time periods, a period of 35 days is specified).

Where an appeal to the magistrates' court is made, the data will be retained until that appeal is determined or abandoned. Where the appeal is determined by the magistrates' court, there is a further right of appeal to the Crown Court. In these circumstances, the data will be retained for a further period of no more than 35 days from the date of the decision of the magistrates' court. If an appeal is made to the Crown Court, the data will be retained until that appeal is determined or abandoned. Where the appeal is determined by the magistrates' court or the Crown Court, it is possible to appeal the decision by way of case stated (Any appeal by way of a case must be lodged within 21 days of the decision of either the Magistrates Court or the Crown Court (see *The Criminal Procedure Rules R35.2*)). To ensure that the information is available if an appeal is lodged by way of case stated and there is a dispute over time periods, a period of 35 days is specified. Accordingly, the data will be retained for a period of no more than 35 days from the date of the decision of the Crown Court (if the decision was made by the magistrates' court, the

retention period has already been addressed). If an appeal by way of case states (which will include potential appeals to the Court of Appeal and Supreme Court) have been determined.

The data will be held securely in accordance with this authority's general policy on the secure retention of personal data which is available at [Link to TWBC data protection web pages](#) to the end of the retention period, the data will be erased and/or destroyed in accordance with this authority's general policy on the erasure and destruction which is available at [Link to TWBC Transparency and Privacy web pages](#)

## **Making a request for further information regarding an entry in NR3**

When an application is made to this authority for the grant of a new, or renewal of, a taxi drivers' licence this authority will check the NR3.

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

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

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

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

This request will be made in writing in accordance with the form at Appendix 1 of this policy. It will be posted or emailed to the contact address of the authority that entered those details (the first authority) which will be detailed in the register.

## **Responding to a request for further information regarding an entry on NR3**

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

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

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

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

Any disclosure must be considered and proportionate, taking into account the data subjects' rights and the position and responsibilities of a taxi driver. Data is held on the NR3 register for a period of 25 years, but this authority (the 1st authority) will not disclose information relating to every entry. Each application will be considered on its own merits.

We will disclose information relating to a revocation or refusal to grant a drivers' licence in accordance with the timescales contained within this authority's Hackney Carriage and Private Hire Licensing Policy (Relevance of Convictions and Cautions). Where the reason for refusal to grant or revocation relates to a conviction which is within the timescales determined in those guidelines, the information will be disclosed. Where the reason for refusal to grant or revocation relates to a conviction which is outside those guidelines, the information will not be disclosed. However, in every case, consideration will be given to the full circumstances of the decision and there may be occasions where information is provided other than in accordance with this policy.

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

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

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

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



## **Using any information obtained as a result of a request to another authority**

When this authority receives information as a result of a request that has been made to another authority, it will take that information into account when determining the application for the grant or renewal of a taxi drivers' licence. This will be in accordance with the usual process for determining applications.

This authority will make and then retain a clear written record of the use that is made of the results of the search (this information will be added to the register detailed above).

Information that is received may warrant significant weight being attached to it, but it will not be the sole basis for any decision that this authority will make in relation to the application.

# Appendix 1

## Information Disclosure Form

This form is submitted following a search of the National Register of Refusals and Revocations (NR3)

Name of licensing authority requesting information (For completion by requestor authority)	
Requestor authority reference number	
Name of licensing authority from which information is sought	
Name of individual in respect of whom the information is sought	
Decision in respect of which the request is made:  Refusal  Revocation	
Other details for this record:  Address  Driving Licence Number  National Insurance Number (NI)  Reference Number	

### Declaration by requesting authority:

*The authority hereby confirms that this information is being sought in connection with the exercising of its statutory function to ensure that holders of taxi/private hire vehicle licences are fit and proper persons, and that the processing of this data is therefore necessary in the performance of a task carried out in the public interest.*

*The information provided below will only be processed, used and saved by the authority in connection with this particular application and in accordance with all relevant data and privacy requirements, as previously advised by the authority to applicants for and existing holders of taxi and private hire vehicles, and will be retained in accordance with the Authority's retention policy relating to the provision of such information.*

*To enable the authority to conduct a data protection impact assessment, details of this authority's policy in relation to the use of information obtained as a result of this request can be accessed at [Link to TWBC data protection web pages](#)*

Signed:

Name:

Position:

Date:

*(For completion by providing authority)*

Further information to support decision recorded on NR3 in respect of the above named individual

## **Declaration by providing authority**

*The authority hereby confirms that it has concluded a data protection impact assessment.*

*It also confirms that the information above is accurate and has been provided after thorough consideration by the authority as to the proportionality and lawfulness of making this disclosure. The information reflects the basis on which the decision recorded in the National Register of Refusals and Revocations was made. In the event that the authority becomes aware that this information is no longer accurate, we will advise the above-named authority accordingly.*

*The authority also confirms that, as part of the basis for securing, retaining or applying for a tax/private hire drivers' licence the above named individual has been made aware to the fact that this information will be shared, in accordance with all relevant date and privacy requirements.*

Signed:

Name:

Position:

Date:

# Appendix 15: Re-allocation of Hackney Carriage Proprietors Licence

## Process

The Council will place a Public Notice on the Tunbridge Wells website and in the local Newspaper giving details of the plate for re-allocation and the procedure for applying as and when one needs to be re-allocated.

The process used to allocate a licence that is passed back to the authority is that of a 'lottery/draw' type system to allow all parties equality of opportunity.

Each applicant is allocated a number and the first number drawn would identify the successful applicant. The next five numbers drawn would identify those applicants who would be held in reserve, in the event that the successful applicant is unable to comply with the policy or has pulled out of the process.

Those held in reserve are only in reserve for the plate in question and not for any subsequent plates that are subject to re-allocation.

The draw is conducted in public at the Licensing Committee meeting to avoid any assertions of foul play, fix or bias and an announcement of the name of the successful party in the draw is made at the meeting as well as the names of those held in reserve.

Once a person has been selected, they need to adhere to the current Hackney Carriage and Private Hire Licensing Policy.

The successful applicant will complete the vehicle licensing procedure within three (3) months of the date of being allocated a licence. The allocation will be withdrawn if they do not complete the vehicle licensing procedure within that period. The licence will be re-allocated to the next person on the list of those held in reserve.

# Appendix 16: Replacement Vehicle Policy

## 1. Private Hire Vehicles

A licensed private hire vehicle can be replaced, swapped or changed with a 'like for like' vehicle that is less than 6 (six) years old. This does not however preclude a proprietor from changing a saloon vehicle to a wheelchair accessible vehicle.

A proprietor who transfers or sells their interest in a licensed private hire vehicle to another person and requests the transfer of another licensed private hire vehicle into their name in the 12 months following the aforementioned transfer or sale must present a vehicle less than 6 (six) years old.

Failure to comply with this policy will result in the vehicle or the private hire vehicle licence being transferred for the duration of the life of the licence; however the Council will then refuse to renew this licence when it expires.

## 2. Private Hire Vehicle Licences

Private hire vehicle licences may only be transferred to a 'like for like' vehicle that is less than 6 (six) years old. This does not however preclude a proprietor from changing a saloon vehicle to a wheelchair accessible vehicle.

A proprietor who surrenders or transfers their interest in a vehicle or private hire vehicle licence can, in the 12 months following the surrender or transfer, request transfer of another private hire vehicle licence into their name.

The licence to be transferred into the proprietor's name must relate to a vehicle, that is less than 6 (six) years old.

Failure to comply with this policy will result in the private hire vehicle licence being transferred for the duration of the life of the licence; however the Council will then refuse to renew this licence when it expires.

## 3. Hackney Carriage Vehicles

A proprietor of a licensed hackney carriage vehicle may replace, swap or change their vehicle with another 'like for like' licensed hackney carriage vehicle of any age. This does not however preclude a proprietor from changing a saloon vehicle to a wheelchair accessible vehicle.

In this policy it is understood that the license and its related vehicle will remain together and not be separated.

## 4. Hackney Carriage Vehicles Licenses

Hackney Carriage vehicle licenses may only be transferred to another 'like for like' vehicle (that is to say separated from its related vehicle and moved to another vehicle) that is younger / newer than the vehicle currently licensed.

## **General**

Any replacement vehicle, whether a short-term or a permanent replacement, must comply with the licensing policy.

A completed transfer form must be completed and other necessary documents supplied and a transfer fee paid prior to any replacement vehicle being used as a private hire or hackney carriage vehicle.

If all conditions are met and are satisfactory, then the licence will be granted for the replacement vehicle.

## **Exemption from policies 1, 2, 3 and 4**

The Sub-Committee will consider each request on an individual basis, taking into consideration the merits of each case, and determine whether an exemption to these policies should be allowed.

## Appendix 17: Location of Taxi Bays

ORDER REF	STREET NAME	LOCATION	DESCRIPTION
2005-6-vrtwb	Calverley Road	South west side – from a point 54 metres north west of its junction with Garden Street to a point 66 metres north west of that junction	No waiting at any time Except taxis
2005-6-vrtwb	Camden Road	Between points 30 metres and 45 metres north of its junction with Calverley Road	No waiting 9pm-6am Except taxis
TW-2012-2-vrtw-tb	Church Road	South side – from a point 58 metres west of its junction with Mount Pleasant Road to a point 72 metres west of that junction	No waiting 11pm-4am Except taxis
2005-5-vrtwb	Linden Park Road	South side – from 7 metres east of western bus stand exit to 12 metres west of eastern bus stand exit	No waiting 8am-6pm except taxis
2007-6-vrrtw-tb	Mount Ephraim Road	South side – between a point 99 metres east of its junction with Hanover Road and a point 122 metres east of that junction	No waiting at any time except taxis
TW-2012-2-vrtw-tb	Mount Ephraim Road/Lime Hill Rd	From a point 6 metres north of its junction with Lime Hill Road to a point 6 metres south of its junction with Mount Ephraim Road	No waiting at any time except taxis
2005-6-vrtwb	Mount Pleasant Avenue	South side – from a point 15 metres east of its junction with Mount Pleasant to a point 25 metres east of that junction	No waiting at any time except taxis
TW-2012-2-vrtw-tb	Newton Road	South side – from a point 37 metres east of Mount	No waiting 6pm-8am except taxis

		Pleasant Road to a point 50 metres east of that junction	
2005-6-vrtwb	The Pantiles (Lower Walk)	North side – from a point 43 metres east of its junction with Linden Park Road to a point 55 metres east of that junction	No waiting at any time except taxis

### Location of Taxi Ranks

These ranks are on private land and apart from Paddock Wood, and are enforced by Tunbridge Wells Borough Council.

ORDER REF	LOCATION	DESCRIPTION	
	Vale Road – Front of Railway Station	Parking at right angles to kerb - 7 spaces – approx. 14 metres	
	Mount Pleasant Road – Back of Railway Station	parallel parking – approx 12 spaces – approx 45 metres	
	Paddock Wood – Station Approach	Parallel parking – approx. 3 spaces – approx. 6.5 metres	

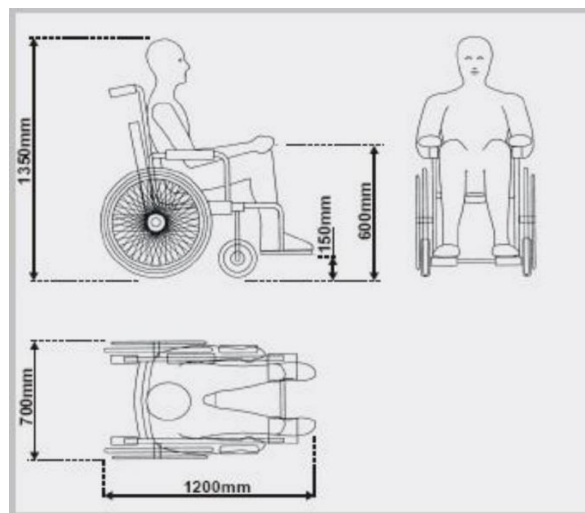


# Appendix 18:

## Hackney Carriage and Private Hire Vehicles

### Wheelchairs and Assistance Dogs

1. Taxis and private hire vehicles provide a vital service to people with disabilities and medical conditions, and through this policy, we intend to ensure that these services remain accessible to such persons. This aim is supported by relevant statutory provisions within the Equality Act 2010.
2. The Council expects that there shall be no discrimination against taxi or private hire customers, passengers or other members of the public in respect of any protected characteristic, and will seek to take appropriate enforcement action against drivers, operators or vehicle proprietors where complaints of such are substantiated. Dependent upon the severity and circumstances of such incidents, action may include prosecution, or revocation or suspension of licences.
3. We also expect that those working in the taxi trade should not be discriminated against by any other person, and strongly encourage those who are unfortunate enough to be subject to such discrimination to report this to the police for investigation.
4. A wheelchair accessible vehicle would be expected to comply with the dimensions of at least those of a 'reference wheelchair' (see below). Licence conditions will require such vehicles to carry (or be fitted with) loading equipment (ramps or lift), and appropriate restraints and seatbelt fittings to safely secure wheelchairs and their occupants.
5. A 'reference wheelchair' is defined in statute as having the following dimensions:



**Length:** 1200mm (approx. 48") including footplates

**Width:** 700mm (28")

**Total seated height:** 1350mm (54")

**Height of footrest:** 150mm (6")

6. It is anticipated that the above dimensions will cover the majority of manual wheelchairs- however; we recognise that some wheelchairs with specialist functionality,

or motorised wheelchairs and mobility scooters, may exceed these dimensions and may not be able to be loaded and carried safely in all designated taxis. In such cases, drivers will be expected to assess whether the passenger can be safely carried in their vehicle, to carry the passenger if their safety and reasonable comfort can be assured, or to assist them in locating a suitable alternative vehicle otherwise, where this is practicable. Such circumstances may constitute a defence to the above-mentioned offence. In all cases, we expect drivers to treat passengers with respect and sensitivity, and to provide a clear explanation as to why they have not been able to convey the passenger.

7. Vehicles which cannot load and carry a wheelchair with the dimensions of the above 'reference wheelchair' are likely to be considered unsuitable for licensing, and an application for such refused.
8. All licensed hackney carriages and private hire vehicles which can safely carry passengers in a reference wheelchair will be designated under section 167 of the Equality Act 2010, from when they are first licensed. This will mean that drivers of those vehicles will have specific legal duties in respect of passengers in wheelchairs, regardless of whether they have hired the vehicle themselves or are accompanying the hirer, to:
  - Carry the passenger while in the wheelchair,
  - Not to make any additional charge for doing so,
  - If the passenger chooses to sit in a passenger seat, to carry the wheelchair,
  - To take such steps as are necessary to ensure that the passenger is carried in safety and reasonable comfort,
  - To give the passenger such mobility assistance as they reasonably require, including assistance
    - to enable the passenger to get into or out of the vehicle,
    - If the passenger wishes to remain in the wheelchair, to enable the passenger to get into and out of the vehicle while in the wheelchair,
    - to load the passenger's luggage into or out of the vehicle, and
    - if the passenger does not wish to remain in the wheelchair, to load the wheelchair into or out of the vehicle.
9. A driver who fails to comply with any of the above duties without valid defence will commit a criminal offence, and may be fined up to £1,000 for each offence on conviction. Offences may also lead to revocation or suspension of taxi licences.
10. Vehicle proprietors may appeal against designation of their vehicle to a magistrates' court, and further details will be issued with confirmation of designation.
11. A list of designated hackney carriage and private hire vehicles will be maintained and published on our website.

12. Wheelchairs should be secured so as to face either forwards or rearwards. Under no circumstances should an occupied wheelchair be secured with the occupant facing the side of the vehicle.
13. Drivers of designated vehicles may apply to the Council for an exemption certificate, if they have a medical or physical condition which would mean they could not carry out the above duties safely. Further details on how such applications will be considered are set out below. Where an exemption certificate has been issued and the corresponding notice of exemption is properly displayed in the vehicle, the driver will be exempted from such duties as appropriate. Exemptions are specific to an individual driver, and will not provide a defence for any other driver of a designated vehicle.
14. Where a vehicle features mechanical, hydraulic or similar lifting equipment for the purpose of loading and unloading passengers, the Council will have regard to the Lifting Operations and Lifting Equipment Regulations (LOLER), and will require evidence of thorough examination of such equipment by a competent person at least once every 6 months.
15. The following additional conditions will apply to vehicle licences for designated hackney carriages:
  - a. Appropriate Wheelchair Tie-down and Occupant Restraint Systems (WTORS) for securing a 'reference wheelchair' and occupant must be carried in the licensed vehicle at all times, and maintained in good order. Equipment should be clearly labelled to show the level/standard to which tested.
  - b. The vehicle must be fitted with or otherwise carry either a ramp or a lift for loading passengers while seated in a 'reference wheelchair', designed for that specific purpose, maintained in good order, and with visible marked reference to a safe working load (SWL) of at least 250kgs and certification to BS 6109 (or equivalent standard).
  - c. All drivers of the licensed vehicle must be trained by the proprietor in the safe usage of the equipment referred to in the preceding paragraphs.
16. Hackney carriage taximeters should not be started until all passengers have been loaded and the driver is ready to commence the journey, and should be stopped upon arrival at the destination, before any unloading activities take place. This is in line with Government guidance, which indicates that running the meter while undertaking statutory duties may constitute making an additional charge for the carriage of passengers in wheelchairs, which is prohibited.
17. The Council currently maintains a published list of designated wheelchair accessible vehicles, which includes both hackney carriage and private hire vehicles where they have met the criteria set out in paragraph 5 ("reference wheelchair") vehicles. **All** current and replacement vehicles that meet this reference standard will automatically be incorporated into the published list s167.
18. Where a hackney carriage or private hire vehicle that is accessible to passengers in wheelchairs, who are able to transfer from their wheelchair into a seat within the

vehicle and the wheelchair can be folded down and placed in the vehicle, will be incorporated into the “Voluntary” published list. Drivers, vehicle proprietors and operators of wheelchair-accessible private hire vehicles may face enforcement action which may include suspension or revocation of licences if they are found to have refused to carry or assist passengers in wheelchairs.

## **Passengers with assistance dogs**

19. All licensed hackney carriages and private hire vehicles are required to carry assistance dogs with their owners, at no additional charge. This duty applies in respect of any dogs which are trained to guide or assist a blind person, a deaf person, a person with a disability or a person with a specified medical condition.
20. Private hire operators are also under a duty to take bookings from passengers with assistance dogs, with no additional charge made for carrying the assistance dog.
21. Drivers or operators who fail to comply with the above duties will commit a criminal offence, and may be fined up to £1,000 for each offence on conviction. Offences may also lead to revocation or suspension of licences.
22. These duties apply equally to dogs provided by charities affiliated with Assistance Dogs UK (See [www.assistedogs.org.uk](http://www.assistedogs.org.uk)), equivalent overseas organisations, or assistance dogs which have been trained by their owners; and regardless of whether the dog is wearing a recognisable harness or jacket, or subject to formal certification. Where a prospective passenger informs a driver that a dog they wish to travel with is an assistance dog, this should be accepted at face value.
23. Assistance dogs are trained to ride with their owner in the main passenger compartment of a vehicle, usually lying at their feet, and the owner will instruct their dog to enter and exit the vehicle. Passengers with assistance dogs should be asked if they have any preference over which seat they sit in – some may prefer to sit in the front passenger seat of a saloon vehicle, as the larger foot-well can offer more space for the dog to sit in. Drivers should be prepared to provide any other reasonable assistance requested by the passenger; however it is unlikely that assistance dogs will require assistance in entering or exiting most vehicles beyond opening the passenger door. Unless the owner has consented to an assistance dog riding in the back of an estate car, drivers should not try to separate assistance dogs from their owners by insisting that the dog rides in a different part of the vehicle – doing so may cause distress to both the dog and the owner.
24. Assistance dogs are bred and selected for their calm nature, and receive substantial specialist training before beginning their roles. They are subject to regular grooming and veterinary health checks. While we recognise that a number of drivers who are not experienced with dogs may feel uneasy at being in such close proximity to one, this does not constitute valid grounds for refusing to carry a passenger with an assistance dog. Similarly, religious beliefs also do not provide grounds for refusing to carry assistance dogs in taxis and private hire vehicles, nor other legal requirements under UK law (“Guidance from the Muslim Shariat Council in 2002 confirmed that trained assistance dogs may accompany disabled people in taxis and private hire vehicles managed or driven by Muslims.” [Transport for London, PCO Notice 01/06]).

25. Drivers with a medical condition affected by close proximity to dogs may apply to the Council for an exemption certificate. Further details on how such applications will be considered are set out below. Where an exemption certificate has been issued and is properly displayed in the vehicle, the driver will be exempted from such duties as considered appropriate. Exemptions are specific to an individual driver, and will not provide a defence for any other driver of a vehicle.
26. There is no specific legal duty to carry non-assistance dogs (e.g. pet dogs) or other animals in taxis or private hire vehicles, and doing so will remain at the driver's discretion.

## **Exemption certificates**

27. Drivers of hackney carriages and private hire vehicles may apply for an exemption from one or more of the statutory duties described above, if they have a physical or medical condition which would be incompatible with the exercise of those duties, or if it would be unsafe for them to be required to carry out the duties.
28. The Council expects that the vast majority of licensed drivers will be able to carry out the duties in full, and as such will require evidence of exceptional circumstances to justify the issue of an exemption certificate. As guidance, only a serious condition which would endanger either the safety or wellbeing of the driver, their passenger(s) or the general public if the duties were strictly enforced, is likely to provide sufficient justification for the issue of an exemption certificate.
29. An application form for applying for an exemption certificate is available on request from the Licensing department. This should be completed in full, and submitted with accompanying documents from an appropriate medical professional involved in diagnosis or treatment of the relevant condition, setting out the effect of the condition, the long-term prognosis, and the risk to public safety if an exemption is not granted to the driver. Evidence from a medical professional with no involvement in the diagnosis or treatment of the condition, or from a medical professional with a separate relationship to a driver, is unlikely to be considered acceptable.
30. If the Council is not immediately satisfied as to the justification for an exemption certificate, or if further specific queries have arisen from evidence submitted with the application, the driver may be asked to undergo an assessment by an independent medical professional appointed by the Council. The costs of this service may be recharged to the driver concerned.
31. Where an allergy or phobia to dogs is cited as grounds for an exemption, we will expect to see evidence of allergen testing results, clinical history, psychological screening results, or similar with an application for exemption. A simple statement that the driver has declared such an allergy or phobia is unlikely to be considered sufficient justification of a medical condition which would warrant the issue of an exemption. A minor allergic reaction which does not affect the driver's ability to safely drive a vehicle or their overall welfare is also unlikely to warrant an exemption.
32. Exemption certificates will typically be issued for a fixed period. For a temporary physical or medical condition, this will usually follow advice from the medical professional as to the likely duration of the condition. A driver granted a lifelong

exemption may be subject to a requirement for reassessment at the discretion of the Licensing Officer.

33. In accordance with the Statutory Regulations, a Notice of Exemption must be exhibited in the prescribed manner while the exempted driver is using it:

- a) by displaying it-
  - i. On the nearside of and immediately behind the windscreen of the vehicle; and
  - ii. In a manner that readily permits its removal;
  
- b) so that-
  - i. its front is clearly visible from the outside of the vehicle; and
  - ii. its back is clearly visible from the driver's seat of the vehicle

When we grant an exemption, we will issue a laminated sign inside a plastic pouch which should be affixed as above, plus a paper certificate of exemption which should be carried in the vehicle with all other paperwork required under the vehicle licence conditions. If a notice is not being displayed and the driver refuses to provide assistance or carry an assistance dog (as applicable), they may be prosecuted or face other enforcement action. Exemption Notices/certificates must be removed if the vehicle is to be driven by another driver.

34. If an application for an exemption certificate is refused, the applicant concerned may appeal against that decision to a magistrates' court within 28 days beginning with the date of the refusal, and further details will be issued with the refusal notice.

## Further information

The following materials may provide further information on this subject:

[Assistance Dogs: A guide for all businesses \(Equality & Human Rights Commission\)](#)

[Access to taxis and minicabs for guide dog owners \(Guide Dogs\)](#)

[Top Tips for Taxi Drivers \(Guide Dogs\)](#)