

COUNCIL

25 FEBRUARY 2016

HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING POLICY

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Summary

The purpose of this report is to seek approval to the Hackney Carriage and Private Hire Licensing Policy for implementation from 1 April 2016.

1. Budget and Policy Framework

1.1 Approval of this Policy is a matter for Council.

2. Background

- 2.1 Taxis and private hire vehicles have a specific role to play in an integrated transport system. They are able to provide services in situations where public transport is either not available (for example in rural areas, or outside “normal” hours of operation such as in the evenings or on Sundays), or for those with mobility difficulties.
- 2.2 The Council has responsibility for licensing hackney carriage and private hire vehicles, drivers and operators within Medway. It has traditionally exercised this responsibility through a number of different procedures and guidance notes that have been developed over a significant number of years.
- 2.3 Many of these procedures and guidance notes have now become rather historic and do not adequately assist the trade or the public. In addition written policies do not currently exist in respect of some important aspects of the service. At the same time, guidance issued to local authorities from central government sets out what is considered to be best practice in terms of hackney carriage and private hire licensing.
- 2.4 The guidance does not seek to cover the whole range of possible licensing requirements. Instead it seeks to concentrate only on those issues that have caused difficulty in the past or that seem of particular significance. However, the key premise remains the same - that it is for individual licensing authorities to reach their own decisions both on

overall policies and on individual licensing matters, in light of their own views of the relevant considerations.

- 2.5 On 18 November 2015 this Committee resolved that a draft Hackney Carriage and Private Hire Licensing Policy be submitted to a future meeting of the Licensing and Safety Committee for consideration. In response, officers drafted a policy for consultation over a 12 week period. The policy, together with all representations/comments received during the consultation process is presented to the Committee for consideration and the Committee is asked to recommend a final policy to Full Council for approval and implementation.
- 2.6 The draft policy is attached at **Appendix A** of this report, showing amendments made during the consultation process, and a schedule of comments received and the action taken in respect of these comments is attached at **Appendix B**.

3. Effects of the Legislation

- 3.1 Taxi licensing and the provision of this service, is complex. The provision is regulated by a number of acts including the Town Police Clauses Act 1847, the Local Government (Miscellaneous Provisions) Act 1976.
- 3.2 The legislation has been subject to a review by the Law Commission; however the main recommendations of this report are yet to be enshrined into law. It is therefore important that a Local Authority's Policy for regulating the Hackney Carriage and Private Hire trade is up to date and reflects current best practice to protect the public and provide a framework to assist decision makers.
- 3.3 The most recent Act, the Deregulation Act 2015, contains provisions relevant to licensing that came into force in October 2015 and have implications for the licensed trade. Specifically section 10 – Taxis and private hire vehicles: duration of licences and section 11 - Private hire vehicles: sub-contracting.
- 3.4 Licensing Authorities will need to move to a 3-year licence issue for drivers (already in place at Medway), and a 5-year licence for operators (currently 1 year at Medway). Section 11 of the Deregulation Act 2015 will also have implications due to its potential impact through powers to subcontract.

4. Advice and Analysis

- 4.1 The proposed policy, whilst comprehensive, aims to strike a balance that will be of benefit to the trade, the public and the Licensing Authority. It also aims to ensure that the licensed trade offers high standards.
- 4.2 This document will assist both officers and the Licensing and Safety Committee in the day-to-day operation of processing and granting of all licences, ensuring consistency of approach and fairness to the trade. It is felt that the current document is not up to date, following changes to legislation and best practice guidance.

- 4.3 A modern, effective policy will ensure that the trade and the public will have a document that fully explains the licensing process.
- 4.4 The licensing and compliance role of the Council is important in improving the health, safety, security and welfare of the Medway residents, visitors and business community.
- 4.5 The proposed policy will ensure the continuation of the high standards currently offered by the trade.
- 4.6 A Diversity Impact Assessment (DIA) has been undertaken on the proposed policy (**Appendix C**). The DIA has indicated that there are no actions required, alternatives proposed or adverse effects to be addressed

5. Risk Management

- 5.1 Failure to reflect the requirements of the Local Government (Miscellaneous Provisions) Act 1976 and Town Police Clauses Act 1847 and 1889, the Public Health Act 1875 and the Local Government Act 1972 in the policy for hackney carriage and private hire could result in the Council not complying with the legislation. This would mean that the Council could be at risk of acting ultra vires and therefore liable to legal challenge. Finally, having a clear policy helps to ensure that licensing decisions comply with the legislation and are made fairly and consistently.
- 5.2 In making recommendations and drawing up the policy we have had regard to the council's statutory duties under the Equalities Act 2010 and Crime and Disorder Act 1998.

6. Consultation

- 6.1 At the request of Members a consultation seeking the views of both the trade and public on the content to be covered in such a policy took place in late 2015. The results of this, along with current good practice, case law and current legislation have formed the basis of the draft policy.
- 6.2 The consultation process was undertaken between the dates of 12 October 2015 to 08 January 2016 and was advertised in the local press, on the Council's website and at the community hubs and Gun Wharf reception.
- 6.3 In addition letters or emails containing the web-link to the draft policy were sent advising of the consultation process and requesting comments to all Ward Councillors and Members of Parliament for Medway, clerks to parish councils, driver and operator licence holders, and town centre managers,. A copy of the draft policy was also placed on deposit at Gun Wharf reception.

7. Licensing and Safety Committee

- 7.1 The Committee considered a report on the draft policy in respect of Hackney Carriage and Private Hire Licensing. Members were requested to comment on the draft policy and make recommendations to Full Council on 25 February 2016 at which meeting the policy would be considered for approval.
- 7.2 The Licensing and Local Land Charges Manager advised the Committee that in March 2015 the views of the taxi trade and the public had been sought and these, together with existing documentation and processes followed, current legislation, case law and guidance, were used to aid the drafting of the proposed policy.
- 7.3 The consultation process had been undertaken between 12 October 2015 and 8 January 2016 and was advertised in the local press, on the Council's website, at community hubs and at Gun Wharf reception. In addition, letters or emails containing the web-link to the draft policy were sent to all Ward Councillors and Members of Parliament for Medway, Clerks to Parish Councils, driver and operator licence holders, and Town Centre Managers. A copy of the draft policy was also placed on deposit at Gun Wharf reception for inspection.
- 7.4 The Licensing and Local Land Charges Manager drew Members' attention to the following aspects of the draft policy:
- The section on stretched limousines had been amended in line with Department of Transport best practice guidelines.
 - At Appendix A on vehicle specifications, the section on tinted windows had been amended following visits to vehicle main dealers and discussions with the Medway Licensed Taxi Drivers Association (MLTDA).
 - At Appendices B and C on vehicle conditions, the wording had been improved and, for hackney carriage vehicles, to remove duplication with the content of the byelaws at Appendix H.
 - At Appendix F on application procedures, the reference to 'VRQ/NVQ certificate' should be replaced with 'any relevant certificates'.
 - At Appendix G on relevance of convictions to applications, the draft policy included both the original and alternative wording for the process to be followed and Members' preference was sought.
 - At Appendix J on private hire driver licence conditions, the seating arrangements had been amended to be consistent with the wording on tariff cards, as requested by the MLTDA.
- 7.5 Members noted the number of responses to the consultation which referred to vehicles operating within Medway that were licensed by a different Licensing Authority and sought clarification on a number of issues. Members were advised that the driver of a non-Medway taxi (hackney carriage or private hire) picking up a passenger who had hailed the vehicle was committing an offence and should be reported to the Licensing Unit. However, under case law, a non-Medway hackney carriage vehicle could be used for bookings made with a Medway operator. Operators had advised that they were employing non-Medway drivers to ensure the availability of vehicles at all times.

- 7.6 On the issue of accessibility set out at section 2.2 of the policy, Members were advised that no complaints had been received about insufficient numbers of wheelchair accessible vehicles but the Licencing Unit would keep the matter under review in liaison with the relevant forums. Issues included the times wheelchair accessible vehicles were available; the cost of purchasing a wheelchair accessible vehicle; and the ease of use for some customers.
- 7.7 Members considered the alternative wording at Appendix G, relevance of convictions to applications. They were advised that the original wording was consistent with Department of Transport guidance but there was a concern that the reference to only certain specific offences could cause confusion. The alternative wording used a description of the 'fit and proper' test that was applied to the consideration of applications. After discussion, the Committee decided to recommend that both wordings be incorporated into the final policy document with the new wording being added by way of a further explanation of the original wording.
- 7.8 The Committee recommended that the alternative wording on the 'fit and proper' test set out at the end of Appendix G, relevance of convictions to applications, be added to the original wording of the Appendix.
- 7.9 The Committee recommended the Hackney Carriage and Private Hire Licensing Policy, including the amendments as set out in the policy and at a) above, to Full Council for approval and implementation

8. Chief Legal Officer's comments

- 8.1 The Licensing and Safety Committee fully debated the draft policy and raised a number of interesting points. I can confirm that the reference to the "fit and proper" test has been incorporated within a new version of appendix G to the draft policy, as drafted by legal officers.

9. Financial and legal implications

- 9.1 There are no direct financial implications for Medway Council concerning this matter at present. However, if at any time in the future the policy was subject to legal challenge, there could be costs associated with this process.
- 9.2 The legal implications are contained within the body of the report. It should be noted that an inappropriately worded policy could result in a legal challenge by way of judicial review.
- 9.3 This policy has been produced pursuant to the powers conferred by the Local Government (Miscellaneous Provisions) Act 1976, the Town Police Clauses Acts 1847 and 1889, the Public Health Act 1875 and the Local Government Act 1972 which place on the Council the duty to carry out licensing functions in respect of hackney carriage and private hire vehicles, drivers and operators.

- 9.4 Notwithstanding the existence of this policy, the Council will consider each application or compliance and enforcement measure on its own merits.

10. Recommendation

- 10.1 The Council is asked to approve the Hackney Carriage and Private Hire Licensing Policy as set out in Appendix A to the report for implementation from 1 April 2016.

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Appendices

Appendix A – Draft Hackney Carriage and Private Hire Licensing Policy

Appendix B – Schedule of comments received and the action taken

Appendix C – Diversity Impact Assessment

Background papers

None



**Hackney Carriage and
Private Hire Licensing Policy**

DRAFT

Approved at Full Council –

Effective from – 1 April 2016

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1 INTRODUCTION

1.1 Powers and Duties

1.1.1 The licensing of hackney carriages dates back to 1847 and 1976 for private hire vehicles (outside London).

1.1.2 The Local Government (Miscellaneous Provisions) Act 1976, as amended, (“the 1976 Act”) places a duty on Medway Council, as the Licensing Authority (the “Authority”), to carry out its functions in respect of hackney carriages and private hire licensing.

1.1.3 Private Hire and Hackney Carriage regulation seeks to protect individuals, businesses and the environment. It must be undertaken in such a way that is effective, does not create unnecessary burdens, and is consistent, transparent, proportionate, accountable and targeted.

1.1.4 This document sets out the policy that the Authority will apply when making decisions about new applications as well as current licences.

1.2 Objectives

1.2.1 Hackney carriage and private hire vehicles play a vital role in an integrated transport system. They provide services in situations where other forms of transport are either not available (rural areas, late evenings and the late night economy) or for persons with mobility difficulties.

The Authority will seek to promote the following objectives that impact on these trades:

- (i) The protection of the public;
- (ii) The establishment of professional and respected hackney carriage and private hire trades;
- (iii) Access to an efficient and effective public transport service; and
- (iv) The protection of the environment.

1.2.2 The Authority aims to regulate the trades in order to promote the above objectives. It is the Authority’s wish to facilitate well-run and responsible businesses, which display sensitivity to the wishes and needs of the general public.

1.2.3 When considering each of the policies detailed in this document regard has been given to the statutory Code of Practice for Regulators in order to ensure that each requirement is properly justified by the risk it seeks to address, balancing the cost of the requirement against the benefit to the public.

1.3 Best Practice Guidance

- 1.3.1 In formulating this policy, advice contained in the *Taxi and Private Hire Vehicle Licensing: Best Practice Guidance* issued by the Department for Transport in March 2010 has assisted the Authority. However, local circumstances and requirements have also been taken into account in this policy.

1.4 Status

- 1.4.1 In exercising its regulatory functions, the Authority shall have regard to this policy document and the objectives set out above.
- 1.4.2 Notwithstanding the existence of this policy, each application or enforcement measure will be considered on its own merits. Where it is necessary for the Authority to depart substantially from its policy, clear and compelling reasons shall be given for doing so.

1.5 Implementation

- 1.5.1 Once approved this policy will be in effect for a period of five years and the Authority expects licence-holders to comply with its terms immediately.
- 1.5.2 The Authority will keep this policy and appendices under review and will consult where appropriate on proposed revisions to the policy with appendices amended when required under delegated powers.
- 1.5.3 From the effective date this policy will override and supersede all existing policies in relation to hackney carriage and private hire licensing.

1.6 Licensing Profile

- 1.6.1 A hackney carriage is a public transport vehicle with no more than 8 passenger seats, which is licensed to ply for hire. This means that it may stand at ranks or be hailed in the street by members of the public. Private hire vehicles must also have no more than 8 passenger seats but these must be booked in advance by customers through an operator and may not ply for hire in the street.
- 1.6.2 Medway Council currently licences 537 hackney carriages and 262 private hire vehicles as well as 31 private hire operators.
- 1.6.3 The Authority has approximately 466 hackney drivers and 357 private hire drivers.

1.7 Consultation

1.7.1 In preparing this policy the Authority has consulted with the following: -

- Medway Licensed Taxi Drivers Association (MLTDA)
- Taxi and Private Hire Drivers & Proprietors
- Private Hire Vehicle Operators
- Medway Councillors
- Parish Councils
- Members of Parliament for Medway
- Town Centre Management
- General Public

1.8 Partnership Working

1.8.1 The Authority will work in partnership with the following agencies to promote the policy objectives: -

- Local hackney carriage and private hire trades
- Kent Police
- Local Residents
- Disability Groups
- Service Users
- Vehicle and Operator Services Agency (VOSA)
- HM Revenue and Customs
- Department of Works and Pensions
- UK Visa and Immigrations
- Other Authority departments

1.8.2 The Authority meets regularly with the MLTDA to consider regulatory issues.

2 VEHICLES

2.1 Specifications and Conditions

2.1.1 Local licensing authorities have a wide range of discretion over the types of vehicle that they can licence as hackney carriage or private hire vehicles. However, Government guidance suggests that they shall adopt the principle of specifying as many different types of vehicle as possible and encourages the use of the "type approval" rules within any vehicle specifications they adopt.

- 2.1.2 This Authority will impose such conditions, as it considers reasonably necessary on hackney carriage and private hire vehicle licences. Such vehicles provide a service to the public and so it is considered appropriate to set criteria for the standard of the external and internal conditions of the vehicle, provided that these are not unreasonably onerous.
- 2.1.3 **Appendix A** sets out the specification and minimum standards in respect of hackney carriages and private hire vehicles.
- 2.1.4 Vehicles can be licensed for the carriage of between four and eight passengers. Applications in relation to vehicles that wish to accommodate less than four passengers shall be referred to the Licensing and Safety Sub Committee.

2.2 Accessibility

- 2.2.1 Hackney carriages and private hire vehicles are an essential mode of transport for disabled, vulnerable and older people. The combination of the personal service they offer, their wide availability and door-to-door operations enable them to respond particularly well to the travel needs of people with disabilities.
- 2.2.2 The Authority 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 Disability 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.”*
- 2.2.3 For this reason, the Authority considers it important that people with disabilities have access to all forms of public transportation. Therefore, in addition to the general conditions, accessibility for people with disabilities (including, but not limited to, people who need to travel in a wheelchair) are an important consideration in respect of the vehicles licensed as hackney carriages. The Council does not intend to impose a date by which all hackney carriages shall be wheelchair accessible at present but does intend to carry out a full study in the future to determine the need and demand in Medway in order to properly inform its views.
- 2.2.4 Since December 2006 licensed drivers have a duty to ensure disabled people are not discriminated against or treated less favourably.
- 2.2.5 “Making private hire services more accessible to disabled people” has been produced by the Disabled Persons Transport Advisory Committee and can be obtained from www.dptac.gov.uk/pubs/phv

2.3 Maximum Age of Vehicles

- 2.3.1 No application for a hackney carriage or private hire vehicle licence will be granted if the vehicle, when initial application is made, exceeds 5 years of age, unless in exceptional condition as defined in the vehicle specifications at **Appendix A**.
- 2.3.2 No application for the renewal of a hackney carriage or private hire vehicle licence will be granted if the vehicle, when application is made, exceeds 7 years of age, unless in exceptional condition as defined in the vehicle specifications at **Appendix A**.
- 2.3.3 All applications for vehicle licences are subject to the satisfactory passing of the MOT test (where applicable) by an authorised garage.

2.4 Vehicle Testing

- 2.4.1 The Authority needs to be satisfied that licensed vehicles operating within its area are safe.
- 2.4.2 All hackney carriage and private hire vehicles shall be subject to the current MOT standard test. Vehicles over three years old are required to have an additional interim inspection after six months. Vehicles over five years old are required to have two additional interim inspections at four monthly intervals.
- 2.4.3 Licensed vehicles that fail an inspection and/or MOT test and are deemed unsuitable for use as a passenger vehicle by the vehicle examiner or Licensing Officer will result in the vehicle proprietor being issued with a suspension notice in order to prevent the vehicle being used to carry passengers until the defect(s) is/are remedied. Once the defects have been satisfactorily remedied then the proprietor may seek the lifting of the suspension notice by the Licensing Officer.
- 2.4.3 In accordance with Statutory Requirements proprietors of licensed vehicles are required to inform the Authority as soon as practicable, (or certainly within 72 hours), of any accident causing “damage materially affecting the safety, performance or appearance of the hackney carriage or private hire vehicle or the comfort or convenience of persons carried therein”.

2.5 Taximeters & Tariff Cards

- 2.5.1 All Hackney Carriage Vehicles must be fitted with a ‘Taximeter.’
- 2.5.2 Each taximeter must be tested and sealed by an Authorised Meter Agent prior to use of the vehicle. The meter must be positioned so that the display is clearly visible to the passengers. The meter must be started at the commencement of each hiring and left on until the hirer has paid the charge at the end of the journey.
- 2.5.3 Private Hire Vehicles do not have to be fitted with a 'Taximeter' but if one is fitted it

must be checked and sealed prior to use.

- 2.5.4 If the seals on any 'Taximeter' are broken the meter must be retested and resealed before use. It is an offence to tamper with any meter or the seals.
- 2.5.5 Hackney Carriage Vehicles must display the current Tariff Card in the form provided by the Council in a prominent position clearly visible to passengers.
- 2.5.6 Private Hire Vehicles that are fitted with Taximeters must also display the Tariff Card in the form provided by the Council in a prominent position clearly visible to passengers.
- 2.5.7 Taximeters must be operated in accordance with this policy and with the Hackney Carriage Byelaws as detailed at **Appendix H**.

2.6 Signage and Advertising

- 2.6.1 It is important that the public shall be able to identify and understand the difference between a hackney carriage and a private hire vehicle.
- 2.6.2 Private hire vehicles are not permitted to display roof-mounted signs or any signs that include the words "Taxi" or "Cab" or "For Hire".
- 2.6.3 Roof signs fitted to hackney carriage vehicles must be illuminated at all times when the vehicle is available for hire.
- 2.6.4 Vehicle identification plates are a key feature in helping to identify vehicles that are properly licensed.
- 2.6.5 All licensed vehicles, except those private hire vehicles deemed to be Executive Vehicles by the Authority, must display plates on the rear of the vehicle.
- 2.6.6 Proprietors of executive vehicles who wish to be exempted from displaying licence plates must apply for an exemption certificate. Applicants who are unable to gain approval from the Licensing Team Leader for an exemption certificate may ask to be referred to the Licensing and Safety Sub Committee for consideration.
- 2.6.7 Private hire vehicles must display door signs in prominent positions on both front doors of the vehicle in accordance with the vehicle specification.
- 2.6.8 Magnetic door signs are permitted.
- 2.6.9 Vehicles are not allowed to display written or other material on any window with the exception of those permitted by the conditions of licence, or prior consent from the licensing authority.

2.6.10 Licensed vehicle proprietors must not display or allow to be displayed in or on their vehicles any signs, notices, advertisements, video or audio display etc either for the purpose of advertising or by way of identifying or personalising marks. However, the Authority will consider varying this prohibition on application from vehicle licence holders in accordance with the terms of the conditions laid out in this policy.

2.7 Driver Safety

2.7.1 The trade provide a valuable service, particularly late at night when other forms of public transport are not available. Security for drivers and passengers is of paramount importance. Licensed drivers deal with strangers, often in isolated places, carry cash and may be at risk of violence and other offences such as non-payment of fares, verbal and racist abuse.

2.7.2 The Government has produced two short guidance documents for drivers which describe various precautionary measures that drivers can take to prevent violence as well as offering practical advice on what can be done in the event of a threat or violent incident.

2.7.3 There are a number of ways to reduce the risks such as pre-payment of fares, driver screens, CCTV surveillance systems and radio link schemes. Such measures are left to the judgement of the owners and drivers themselves. However, the hackney carriage and private hire trades are encouraged to consider the installation of CCTV systems in their vehicles on a voluntary basis.

2.7.4 If devices such as CCTV security systems are fitted for the purpose of assisting driver safety, adequate signage must be displayed in the passenger compartment advising passengers that they are being monitored / recorded. It is recommended that a minimum of two warning signs shall be displayed prominently inside vehicles so as to be easily seen by passengers. Any such equipment must be fitted overtly and in such a way as not to present any danger or hazard to any passenger. It will be the driver / proprietors' responsibility to comply with all aspects of the law regarding such surveillance equipment and to ensure that the system is properly maintained and serviced to ensure clear images are recorded.

2.8 Environmental Considerations

2.8.1 Hackney carriages and private hire vehicles are an essential form of transport in the Medway area. Many people depend on hackney carriages for trips that other forms of transport are incapable of making. It is clearly important that emissions from licensed vehicles are reduced as far as possible.

2.8.2 It is therefore paramount that efforts shall be made to improve, as far as possible, the efficiency of licensed vehicles by, in particular, reducing the levels of CO₂ emitted. Liquid petroleum gas (LPG) conversions are, therefore, acceptable. Any conversion to LPG must be undertaken by an approved converter and the

conversion certificate produced to the Authority for inspection.

- 2.8.3 Encouraging better maintenance of vehicles and by switching off engines when stationary or idling, particularly at ranks could reduce emissions from licensed vehicles further.

2.9 Stretched Limousines

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

- 2.9.2 Licensing authorities have generally considered there to be some problems preventing stretched limousines from being licensed including: -

- Many of them are left hand drive;
- Many are fitted with all round darkened glass;
- Many have been converted or modified after manufacture;
- Seating space per passenger is 460mm and could give a greater capacity than eight persons; and
- Due to their origin many parts may not be available making adequate maintenance difficult.
- Many do not have the correct tyre size.

- 2.9.3 Most limousines are imported for commercial purposes and are therefore required to take a Single Vehicle Type Approval (SVA) test. The SVA Scheme is an Inspection Scheme for vehicles that are not approved to British and European Standards and its purpose is to ensure that these vehicles meet modern safety standards and environmental standards before being used on public roads. When presented for SVA the vehicle is produced with a declaration that it will never carry more than eight passengers. The importer must inform any person who may use it of this restriction. Any subsequent purchasers must also be informed of the restriction.

- 2.9.4 With the above in mind additional vehicle checks will be required to ensure the safety of the vehicle for carrying passengers and compliance with the Medway Vehicle Specification.

2.10 Contract Vehicles

- 2.10.1 The Road Safety Act 2006 requires vehicles used for a contract with an organisation or company, for carrying passengers for hire or reward under a contract, to be licensed as private hire vehicles. As a general guide this will include executive hire, chauffeur services, park and ride for private car parks, airport travel, stretch limousines and novelty vehicles.

2.11 Executive Vehicles

- 2.11.1 An executive vehicle is defined as any vehicle currently licensed with the Medway Council as a Hackney Carriage or Private Hire Vehicle in the vehicle specification at Appendix.
- 2.11.2 Proprietors of executive type vehicles licensed as private hire vehicles or private hire vehicles used in special circumstances may seek the permission of the Authority to waive conditions of their licence relating to the display of licence plates, door stickers and driver badges.

2.12 Application Procedures

- 2.12.1 Applications for a hackney carriage or private hire vehicle licence must be made on the specified application form in accordance with the application procedure set out in **Appendix D**.

2.13 Consideration of Applications

- 2.13.1 The Authority will consider all applications on their own merits once it is satisfied that the appropriate criteria have been met and the application form and supporting documents are complete.
- 2.13.2 Any applications for vehicle licences that fall outside of the policy will be referred to the Licensing Manager and if necessary to the Licensing & Safety Sub Committee for consideration. (e.g. Fire Engine as a novelty vehicle)

2.14 Renewal of Licences

- 2.14.1 Whilst every effort will be made to remind existing vehicle licence holders that their licences are due to be renewed and of the need to arrange an appointment prior to their expiry date, it is the licence holder's responsibility to ensure that licences are renewed prior to their expiry. Application forms, appropriate fees, and supporting documentation, as set out in **Appendix F**, must be produced and appointments must be arranged on a date prior to the expiry date of the licence.
- 2.14.2 It is advisable that vehicles shall be examined and tested at an approved testing station at least 7 days prior to the application appointment. This is to allow time for a vehicle to be repaired and then re-tested, should the vehicle examination identify the need and prior to the expiry of the licence.

3 DRIVERS

3.1 Licences

- 3.1.1 This Authority issues both hackney carriage & private hire driver's licence. Licences are issued for a maximum period of three years but the Authority will

grant licences for a lesser period if deemed appropriate.

- 3.1.2 Applicants must be over 18 years of age and hold a full driving licence issued in the UK, the European Community (EC) or one of the other countries in the European Economic Area (EEA) for at least 12 months before an application can be submitted.
- 3.1.3 Applicants must make a declaration that they have a statutory right to work in the UK and any applicant that has a limited right to work will not be issued a driver licence for a period longer than that limited period.
- 3.1.4 Application procedures are detailed in **Appendix F**.

3.2 Driver Knowledge Tests

- 3.2.1 Hackney carriage drivers need a good working knowledge of the area for which they are licensed because they can be hired directly at ranks or on the street. The Authority also considers it necessary for private hire drivers to know the area.
- 3.2.2 In order to assist the Authority in determining the fitness of an applicant to hold a hackney carriage or private hire driver's licence, applicants are required to undertake a local knowledge test to challenge their knowledge of the highway system in Medway and where appropriate a communications test to challenge their understanding of the English language.

3.3 Driving Proficiency

- 3.3.1 The Driving Standards Agency (DSA) provides a driving assessment specifically designed for hackney carriage and private hire drivers.
- 3.3.2 All new drivers are required to pass the DSA test, or another similar approved test as a part of the application process.

3.4 Medical Examination

- 3.4.1 The Authority requires Group 2 Standards of Medical Fitness (as applied by the DVLA to the licensing of lorry and bus drivers) as the appropriate standard for licensed hackney carriage and private hire drivers.
- 3.4.2 Holders of Public Service Vehicle (PSV) and/or Heavy Goods Vehicle (HGV) Licences, where the holder is able to produce proof of current medical examination less than 3 months old, are not required to undergo a medical examination on first application.

- 3.4.3 Licence holders must advise the Authority, in writing and without delay, of any deterioration in their health that may affect their driving capabilities.
- 3.4.4 Where there is any doubt as to the medical fitness of the applicant, the Authority may require the applicant to undergo and pay for a further medical examination by a Medical Doctor appointed by the Authority.
- 3.4.5 Where there remains any doubt about the fitness of any applicant, the Licensing and Safety Sub Committee will review the medical evidence and make any final decision in light of the medical evidence available.
- 3.4.6 No licence will be issued until medical clearance (if required) has been established.
- 3.4.7 A satisfactory medical certificate from a doctor in the form provided must be submitted on first application and then at 5 yearly intervals until the age of 55 then every 3 years until the age of 61, thence annually, and at reasonable time at the request of the Council. The applicant must meet all fees.

3.5 Disclosure and Barring Service (DBS)

- 3.5.1 A criminal record check on a driver is seen as an important safety measure. Enhanced Disclosure through the Disclosure and Barring Service (DBS) is required as these disclosures include details of spent convictions, police cautions and other relevant information. Enhanced checks are within the DBS eligibility criteria. Checks will be at the applicant's expense.
- 3.5.2 The Rehabilitation of Offenders Act 1974 **does not apply** to applicants for drivers' licences. They are required to disclose all convictions, including those that would normally be regarded as spent.
- 3.5.3 Before an application for a driver's licence will be considered, the applicant must provide a current Enhanced DBS Disclosure of criminal convictions for the purpose of driving a hackney carriage or private hire vehicle.
- 3.5.4 The Authority is a registered body to carry out criminal records checks; therefore, applicants must deal with the DBS through the Authority and will be charged an appropriate fee.
- 3.5.5 The licence holder is also required to formally confirm (by signing a declaration) both their licence details and the fact that they have not been convicted of any offence at each renewal of their driver licence. Applicants with relevant offences may be referred to the Licensing and Safety Sub Committee for consideration.
- 3.5.6 The Authority is bound by rules of confidentiality, and will not divulge information obtained to any third parties. The applicant for a DBS disclosure will be sent the disclosure report to their home address. The applicant must submit this to the authority, which will be used to process the application and then return to the applicant.

3.6 Relevance of Convictions and Cautions

3.6.1 In assessing whether the applicant is a fit and proper person to hold a licence, the Authority will consider each case on its merits. It will take account of cautions and convictions, whether spent or unspent, but only in so far as they are relevant to an application for a licence. Upon receipt of a disclosure from the Disclosure Barring Service, or similar document, the Licensing Team will assess whether any or all of the convictions, and any additional information received, is capable of having real relevance to the issue of whether or not the applicant is a fit and proper person to hold a licence in line with this policy. Delegated authority has been given to officers to refuse to grant a licence to applicants not deemed fit and proper.

3.7 Convictions – Licence Holders

3.7.1 Where licensed drivers commit offences leading to conviction or police caution, it is important, in the interests of consistency and transparency that a procedure is in place to consider what effect this shall have on their licence.

3.7.2 Drivers who are convicted of any criminal or motoring offence or issued with a police caution/warning during the period of their licence must disclose the conviction and the penalty imposed, in writing to the Authority within fourteen days of receiving the caution/warning or conviction.

3.7.3 Convictions, police cautions and breaches of legislation, licence conditions, byelaws and this policy by licence holders will be dealt with in accordance with this policy as set out at **Appendix G**.

3.8 Code of Good Conduct

3.8.1 The standards expected of licensed drivers are set out in a Code of Good Conduct, which shall be read in conjunction with the other statutory and policy requirements set out in this document.

3.8.2 This Authority's Code of Good Conduct for licensed drivers is set out in **Appendix K**. Licence applicants will be required to sign a declaration to confirm their understanding and acceptance of the code at their next renewal date.

3.9 Dress Code

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

3.9.2 This Authority's Dress Code for licensed drivers is set out in **Appendix L**. Licence holders will be required to sign a declaration to confirm their understanding and acceptance of the code at their next renewal date.

3.10 Application Procedure

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

3.11 Renewal of Licences

- 3.11.1 Although every effort will be made to remind licence holders in the month preceding their expiry, when their licences are due to be renewed and of the need to apply, it remains the responsibility of the licence holder to ensure that applications to renew are made in good time. Application forms, appropriate fees, and supporting documentation, as set out in **Appendix F**, must be available and it is advisable that appointments are arranged on a date at least 7 days prior to the expiry of the licence. Licences cannot be renewed following their expiry.

3.12 Conditions of Licence

- 3.12.1 Medway Council issues both hackney carriage and private hire vehicles. **Appendix H** contains the hackney carriage byelaws, **appendices B and C** in respect of vehicle conditions and **appendices I and J** contain conditions attached to driver licences which are considered reasonable, necessary and proportionate for all licensed vehicles and drivers.

4 PRIVATE HIRE OPERATORS

4.1 Requirements and Obligations

- 4.1.1 Any person, other than a hackney carriage proprietor, who operates a private hire service, must apply to the Authority for a Private Hire Operator's Licence. The objective in licensing private hire operators is the safety of the public who will be using operators' premises and vehicles and drivers arranged through them.
- 4.1.1 A private hire vehicle will only be despatched to a customer by a private hire operator who holds an operator's licence. Such a licence permits the operator to make provision for the invitation or acceptance of bookings for a private hire vehicle. A private hire operator must ensure that a person who holds a private hire drivers licence issued by Medway Council drives only Medway licensed private hire vehicles.
- 4.1.2 Applications for operator's licences must be made on the prescribed form, together with the appropriate fee. The Authority will then decide whether the applicant is a fit and proper person to hold an operator's licence.
- 4.1.3 All Operators will be audited to check compliance with the licence conditions and records.

4.2 Criminal Record Checks

- 4.2.1 Before an application for a private hire operator's licence will be considered, the applicant must provide a current Basic Disclosure obtained from Disclosure Scotland. The disclosure must be produced on application and is valid for three years from the date of issue. A subsequent disclosure must be provided prior to expiry of the existing.

4.3 Conditions

- 4.3.1 All Operators' licences are issued subject to the conditions set out at **Appendix M**.

4.4 Insurance

- 4.4.1 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 and employers liability policy.

4.5 Licence Duration

- 4.5.1 This Authority will grant private hire operator licences for a period of five year from the date of grant, subject to the power to grant a licence for a shorter period, shall this be appropriate in the circumstances.
- 4.5.2 Although every effort will be made to send out reminder letters to licence holders in the month preceding their expiry, when their licences are due to be renewed and the need to apply, it remains the responsibility of the licence holder to ensure that applications to renew are made in good time.

4.6 Planning Permission

- 4.6.1 Operators Licences will only be issued where the applicant has demonstrated that the necessary Planning Permissions are in place for the operation of a Private Hire Business from the address at which the licence is to be issued. If an applicant is unable to provide such evidence then the application will be rejected until such time as satisfactory evidence is provided to this effect.

5 DISCIPLINARY AND ENFORCEMENT MEASURES

5.1 Enforcement

- 5.1.1 The Government believes that regulators shall have access to effective sanctions that are flexible and proportionate and that ensure the protection of workers, consumers and the environment when tackling non-compliance by businesses.

- 5.1.2 It is recognised that a risk-based approach to enforcement by the Authority benefits not only the public but also the responsible members of the hackney carriage and private hire trades.
- 5.1.3 In pursuance of its objective to encourage responsible hackney carriage/private hire businesses, the Authority will operate a firm but fair disciplinary and enforcement regime. With a view to balancing the promotion of public safety with the need to permit individuals to safeguard their livelihood without undue interference, the Authority will only intervene where it is necessary and proportionate to do so, having regard to the objectives outlined in section 1.2.1 of this document. Where defects are such that vehicles need to be immediately prohibited, livelihood interference is inevitable.
- 5.1.4 The Enforcement Policy as set out at **Appendix N** will ensure that the Authority's enforcement effort is reasonable, transparent and well directed.

5.2 Penalty Points Scheme and Warnings

- 5.2.1 In respect of minor breaches of licence conditions the Authority will issue penalty points, warnings, and cautions, as are appropriate to the circumstances. The penalty point's scheme is included at **Appendix O**.
- 5.2.2 A licence holder issued with penalty points may appeal against such a decision, which will result in a hearing before the Licensing & Safety Sub Committee.

5.3 Suspension and revocation of vehicle licences.

- 5.3.1 Local Government (Miscellaneous Provisions) Act 1976 (Extract)

60. -(1) *Notwithstanding anything in the Act of 1847 or in this Part of this Act, a district council may suspend or revoke, or (on application therefore under section 40 of the Act of 1847 or section 48 of this Act, as the case may be) refuse to renew a vehicle licence on any of the following grounds: —*

- (a) That the hackney carriage or private hire vehicle is unfit for use as a hackney carriage or private hire vehicle;*
 - (b) Any offence under, or non-compliance with, the provisions of the Act of 1847 or of this Part of this Act by the operator or driver; or*
 - (c) Any other reasonable cause.*
- (2) Where a district council suspend, revoke or refuse to renew any licence under this section they shall give to the proprietor of the vehicle notice of the grounds on which the licence has been suspended or revoked or on which they have refused to renew the licence within fourteen days of such suspension, revocation or refusal.*
- (3) Any proprietor aggrieved by a decision of a district council under this section may appeal to a magistrates' court.*

- 5.3.2 Licensed vehicles must be kept at all times in an efficient, safe, tidy and clean condition. Compliance with the vehicle specifications and conditions of licence is essential and will be enforced by periodic, random vehicle inspections by the Authority. Where it is found that any vehicle is not being properly maintained a Vehicle Defect Notice may be served on the vehicle proprietor setting out the defect(s) that need to be rectified and arrangements for the vehicle to be further inspected to check compliance. Failure to comply with the requirements of the notice may result in the vehicle licence being suspended automatically.
- 5.3.3 Where public safety is likely to be imperilled by the defect(s) the vehicle licence may be suspended until the defects have been remedied. The suspension notice will only be lifted once the Authority is satisfied that the defects have been satisfactorily repaired, and been passed as fit for use by the Authority.
- 5.3.4 Where a licence holder has been subject to two or more suspension notice in accordance with the points system in any 6-month period, he or she will be referred to the Licensing & Safety Sub Committee for consideration; the Committee may order the revocation or suspension of the licence.
- 5.3.5 As an alternative to revocation, the Licensing & Safety Sub Committee may decide that the appropriate action, in a situation where the licence is shortly to expire, is to resolve that the licence will not be renewed.

5.4 Suspension and Revocation of Driver Licences

5.4.1 Local Government (Miscellaneous Provisions) Act 1976 (Extract)

61. -(1) Notwithstanding anything in the Act of 1847 or in this Part of this Act, a district council may suspend or revoke or (on application therefore under section 46 of the Act of 1847 or section 51 of this Act, as the case may be) refuse to renew the licence of a driver of a hackney carriage or a private hire vehicle on any of the following grounds: —

- (a) That he has since the grant of the licence—*
 - (i) Been convicted of an offence involving dishonesty, indecency or violence; or*
 - (ii) Been convicted of an offence under or has failed to comply with the provisions of the Act of 1847 or of this Part of this Act; or*
 - (b) Any other reasonable cause.*
- (2)(a) Where a district council suspend, revoke or refuse to renew any licence under this section they shall give to the driver notice of the grounds on which the licence has been suspended or revoked or on which they have refused to renew such licence within fourteen days of such suspension, revocation or refusal and the driver shall on demand return to the district council the driver's badge issued to him in accordance with section 54 of this Act.*

(b) If any person without reasonable excuse contravenes the provisions of this section he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 1 on the standard scale.

(2A) Subject to subsection (2B) of this section, a suspension or revocation of the licence of a driver under this section takes effect at the end of the period of 21 days beginning with the day on which notice is given to the driver under subsection (2)(a) of this section.

(2B) 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 under subsection (2)(a) of this section includes a statement that that is so and an explanation why, the suspension or revocation takes effect when the notice is given to the driver.

(3) Any driver aggrieved by a decision of a district council under subsection (1) of this section may appeal to a magistrates' court.

5.4.2 Private Hire & Hackney Carriage Driver Licences are issued subject to the Private Hire Drivers Licence Conditions (Private Hire Driver Licences) (Appendix F), Hackney Carriage Byelaws (Hackney Carriage Driver Licences) (Appendix G) The Code of Good Conduct (Appendix H), Dress Code (Appendix I) Penalty Points Scheme (Appendix L) and breaches will be dealt with in accordance with the Enforcement Policy & Practice (Appendix K)

5.4.3 As an alternative to revocation, the Licensing & Safety Sub Committee may decide that the appropriate action, in a situation where the driver licence is shortly to expire, is to resolve that the licence will not be renewed.

5.5 Suspension and revocation of operators' licences.

5.5.1 Local Government (Miscellaneous Provisions) Act 1976 (Extract)

62. -(1) Notwithstanding anything in this Part of this Act a district council may suspend or revoke, or (on application therefore under section 55 of this Act) refuse to renew an operator's licence on any of the following grounds: —

- (a) Any offence under, or non-compliance with, the provisions of this Part of this Act;*
- (b) Any conduct on the part of the operator which appears to the district council to render him unfit to hold an operator's licence;*
- (c) Any material change since the licence was granted in any of the circumstances of the operator on the basis of which the licence was granted; or*
- (d) Any other reasonable cause.*

(2) Where a district council suspend, revoke or refuse to renew any licence under this section they shall give to the operator notice of the grounds on which the licence has been suspended or revoked or on which they have refused to renew such licence within fourteen days of such suspension, revocation or refusal.

(3) Any operator aggrieved by a decision of a district council under this section may appeal to a magistrates' court.

5.5.2 Private Hire Operator Licences are issued subject to the Private Hire Operator Licence Conditions (Appendix J) and breaches will be dealt with in accordance with the Enforcement Policy & Practice (Appendix K)

5.6 Prosecution

5.6.1 The Authority may prosecute licence holders for relevant offences in accordance with any relevant statutory requirements and its own enforcement policy (**Appendix N**)

5.7 Complaints

5.7.1 The Authority has a complaints procedure whereby the general public can submit complaints about licensed drivers and operators and details are included in **Appendix N**.

6 DELEGATED POWERS

6.1 Licensing & Safety Committee

6.1.1 The Licensing & Safety Committee and sub committees of this committee of the Authority are responsible for the management of the Hackney Carriage and Private Hire licensing regime in the district.

6.1.2 Certain powers have been delegated to Officers under the scheme of Officer delegations within the Council's Constitution.

7 FARES

7.1 General

7.1.1 The Hackney Carriage Table of Fares ("the tariff") adopted by the Authority sets the maximum fare that can be charged by hackney carriage drivers.

7.1.2 The Authority will review the tariff from time to time as necessary or when a bona-fide proposal is received. The Authority in a local newspaper shall advertise a notice of any variation to the maximum fare with a date set 14 days from

publication for making objections to the proposed variation. If no objections are received the fare variation will have immediate effect at the end of the 14-day consultation period. If any objections are received the matter will be referred to Cabinet for consideration and a further implementation date set.

7.1.3 The Authority is not able to set fares for private hire vehicles.

7.1.4 When a journey ends outside of the district borders a fare greater than that which would have been shown on the meter may be charged **but only if an agreement has been made with the hirer in advance and the meter is switched off**. It shall be noted that a fare greater than that shown on a meter couldn't be charged irrespective of what may have been agreed beforehand if the journey ends within the district borders.

7.2 Table of Fares

7.2.1 A table of authorised maximum fares will be provided to each hackney carriage and private hire licence holder, which must then be displayed in each vehicle so that it is easily visible to all hirers.

7.3 Receipts

7.3.1 Drivers shall, if requested by the passenger, provide written receipts for fares paid.

8 FEES

8.1 Fee Structure

8.1.1 The legislation provides that fees charged to applicants shall be sufficient to cover the costs of inspecting the vehicles, providing hackney carriage stands (taxi ranks) and administering the regulation of the hackney carriages and private hire trades.

8.2 Payment Refunds and Transfers

8.2.1 The appropriate fee must be paid when the application is submitted and a charge will be levied to cover the administrative costs associated with the transfer of ownership of a vehicle.

8.2.2 Licences surrendered prior to their expiry shall be eligible for a refund of the unexpired portion of the licence.

9 HACKNEY CARRIAGE STANDS (TAXI RANKS)

9.1 The purpose of hackney carriage stands (also known as taxi ranks) is to provide the public with a set location where they can hire a licensed hackney carriage. The stand is the only situation where a hackney carriage may ply for hire in a stationary

position and shall be situated in locations where the public most need hackney carriages, for example adjacent to transport facilities, retail areas and places of employment, entertainment and leisure facilities. Stands shall be sited so that passengers can board or alight from the vehicle safely. Stands can be continual or part time use.

10 POINTS

10.1 Hackney Carriage hailing points have been introduced in other parts of the country and are an alternative to a stand where there is insufficient space for a stand or the location does not justify the creation of a stand. It is a specific location where the public know they will be able to hail a hackney carriage and the theory is that licensed drivers know where they are and will ensure they pass them on a regular basis. There is no provision for hackney carriages to wait at these locations.

10.2 Whilst there has been no request for the provision of hailing points in Medway, the Authority will consider such requests on their individual merits as they arise.

APPENDIX A – MEDWAY COUNCIL VEHICLE SPECIFICATIONS

Age Criteria:

Both hackney carriage and private hire vehicles shall be no older than three years at a time of first licensing (and no older than five years on licence renewal) but that the vehicle age limit shall be relaxed in the case of vehicles in exceptional condition;

“exceptional condition” shall mean:

The vehicle must be in good running order. It must have been correctly and regularly serviced and the interior, upholstery, roof lining and seats must be free from tears or marks. The bodywork must be near perfect with no dents or visible evidence of repairs or rust and the doors and windows must operate properly. Mechanically the car must be completely sound with all parts and equipment in good working order. The tyres, battery, silencer and brake linings should not need replacing for another 8000km (about 5000 miles). The mileage must not exceed 120,000 unless the vehicle has undergone regular servicing and a full service history can be produced.

NB: The vehicle must be presented (by appointment) to the Licensing Unit for a compliance inspection prior to purchase. Should you purchase a vehicle without the Council first inspecting it, and it is subsequently refused as it does not comply with the above criteria, the council will not be liable for any expense incurred by the applicant/driver.

Vehicle Conditions – Fitness:

All vehicles must be in good condition, clean and presentable.

All vehicles shall be of at least 1350cc engine capacity.

All vehicles shall have a suitable and sufficient boot compartment for luggage.

All vehicles shall have a fire extinguisher that complies with the council's fire extinguisher specifications.

Steering – The steering wheel should be on the offside.

Doors – Saloon/hatchback. Four doors, being two on each side of the vehicle. Converted van type vehicles without a nearside door are not acceptable, nor are vehicles with exits sited over petrol tanks. Doors should open sufficiently for any passenger to enter and exit the vehicle. Minibus conversions should have at least two lateral doors (one on either side to the rear of the driver's seat) and possibly one rear.

Multi-seater vehicles affording no direct access to the rear door (e.g.: a non-collapsible bench seat at the rear of the vehicle) shall have a minimum of two lateral doors, one on either side to

the rear of the driver's seat, in addition to the other criteria in this specification sheet.

Multi-seater vehicles affording direct access to the rear door shall have a minimum of one lateral side door to the rear of the front passenger seat, in addition to the other criteria on this list.

Seat Width – The size requirement is 16” per person. The distance of 48” for 3 persons should be taken between the arm rests as these can in some cases significantly reduce the width. A height of 34” between seat and roof and 7” from back of the front seat to the front of the rear seat (when front seat is fully pushed back) is required.

Seating Arrangements – The maximum number of passenger seats allowed is 8 and all should have access to a door without the need to climb over a seat. Seats should not be sideways to the direction of travel and all should comply with the seat belt regulations.

It must be remembered that a licence is issued for a maximum number of passengers (regardless of age or size) and it is an offence to carry more than the number licensed for. Medway fare tariffs allow 2 children under a certain age to be counted as one adult for calculating fares only.

Tinted Windows - In accordance with the Road Vehicles (Construction & Use) Regulations 1986 the windscreen must allow at least 75% of light to be transmitted through it. The front side windows must allow at least 70% of light to be transmitted through them. This is a legal requirement. <https://www.gov.uk/tinted-vehicle-window-rules>

In addition, Medway Council will only grant licences for hackney carriage or private hire vehicles that have maximum tint of 60% (allowing at least 40% of light to be transmitted through) on all other glazed area, with the exception of sunroofs, where no level is set.

Resprays – For aesthetic purposes all areas of the vehicle visible to the paying public to be included.

Standardisation

Hackney carriages shall be a standard colour of white.

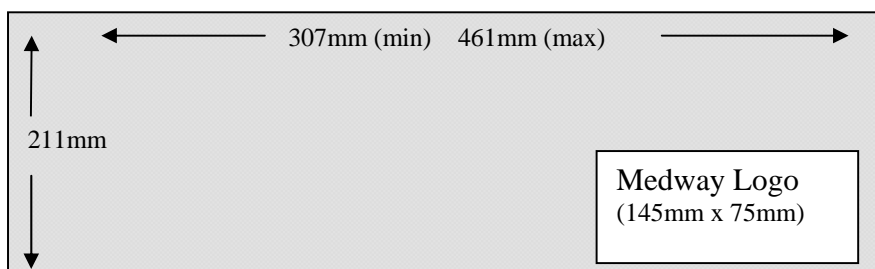
Private hire vehicles shall be a standard colour of red, not metallic (the DVLA Registration Document must include or specify red in the log book).

Hackney carriage top lights shall be fitted on the roof, centrally, at the front of the vehicle. The top light must be yellow and of streamline design 18” x 7” x 4 ½” high, with ‘MEDWAY COUNCIL’ in the centre on the front and “FOR HIRE” on either side on a green square background. Vehicles with wheelchair accessibility to have one “FOR HIRE” square replaced with the disabled logo;

Hackney carriages and private hire vehicles shall have door signs.

- i) The sign shall be 8.25” (211mm) in height and a minimum of 12” (307mm) and maximum of 18” (461mm) wide.

- ii) The sign shall be magnetic and placed centrally on the front passenger and driver doors. The wording must include the word TAXI (in addition to the circuit name) for hackney carriages, or PRIVATE HIRE VEHICLE (for private hire vehicles), circuit name and telephone number.
- iii) The Medway Council logo shall be placed in the lower right hand corner of the sign (see below) and shall measure 5.75" X 3" (145mm x 75mm). The logo will be set against a white background and the supplier must obtain the logo from the Council's licensing team (telephone: 01634 -333597).



- iv) All lettering and numbers are to be of a contrasting colour to the door or background on which they appear.
- v) The signs are to be easily read and should be clear, informative and unambiguous.
- vi) It is not permitted for the rear doors of vehicles to be used to display door signs.
- vii) **ANY DOOR SIGN DESIGNED TO COMPLY WITH THE ABOVE SPECIFICATIONS SHALL BE SUBMITTED TO MEDWAY COUNCIL'S LICENSING UNIT FOR PRIOR APPROVAL.**

Private hire vehicles shall have a white chequered stripe to be adhered centrally on either side of the vehicle. The chequered stripe shall be on a transparent background and be of two rows width with white squares measuring 25mm x 25mm e.g.: -

White		White		White
	White		White	

Private hire vehicles used solely for executive car hire (top of the range models), providing an executive service shall be exempt from the standard colour, stripes and signing referred to above.

Private hire vehicles used solely for school contracts shall be exempt from the standard colour, stripes and signing detailed above but shall have door signs to show that they are school transport licensed by Medway Council. Licence plates shall be of a different colour to that of full private hire or hackney carriages. The age of these vehicles shall be covered by the contract.

Private hire vehicles used solely by independent fee paying schools that provide a transport service to staff and pupils on an ad hoc basis shall be exempt from the standard colour stripes and signage

Companies that only do "airport runs" do not have specialised vehicles and therefore would have to comply with the standards detailed above.

Vehicles not falling within the above criteria but with special characteristics will be considered on their individual merits by the Licensing Manager and if necessary the Licensing and Safety Committee.

Whilst the above criteria may have been complied with, a licence may nevertheless be withheld if the Council is of the opinion that the vehicle is unsuitable for public use.

APPENDIX B – VEHICLE CONDITIONS FOR LICENCE OF HACKNEY CARRIAGE VEHICLES

The proprietor of a Hackney Carriage shall ensure that:

1. The vehicle shall have fitted externally to the roof of the vehicle in a position, of a size and of a type approved by Medway Council, a sign (hereinafter call “the sign”) consisting of the words “For Hire” and/or “Taxi” and capable of being illuminated. The sign shall be maintained in such a position and in proper repair and condition throughout the duration of this licence.
2. The sign shall be illuminated when the vehicle is being used for plying for hire in any street and is not actually hired. The light of the sign shall be extinguished throughout the whole of the time during which the vehicle is actually hired.
3. Internal advertisements are permitted provided that they are not displayed on or near any glazed area and that they are not offensive to the public or Medway Council in terms of decency, race or other similar matter.
4. Whenever the vehicle is operated as a Hackney Carriage it complies with Medway Councils Vehicle Specification.
5. Advertising on the external body shell of the vehicle is permitted, subject to written approval from the Licensing Unit.
6. Any person driving his/her licensed vehicle, whether for hire and reward or social, domestic and pleasure purposes, holds a Hackney Carriage Driver Licence issued by Medway Council.

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APPENDIX C – VEHICLE CONDITIONS FOR LICENCE OF PRIVATE HIRE VEHICLES

The proprietor of a Private Hire Vehicle shall ensure that:

1. The vehicle displays a sign of a type and design approved by Medway Council. Such sign is to be displayed in the centre of the front passenger and driver's door.
2. Internal advertisements are permitted provided that they are not displayed on or near any glazed area and that they are not offensive to the public or Medway Council in terms of decency, race or other similar matter.
3. Advertising on the external body shell of the vehicle is permitted, subject to written approval from the Licensing Unit, Medway Council.
4. At any time when the vehicle is being used or operated as a Private Hire Vehicle it shall have displayed internally, in a prominent, conspicuous and easily observed position:
 - (a) The Identity Badge supplied by Medway Council bearing a photograph of the driver of the vehicle.
 - (b) The small internal plate bearing the private Hire Plate number.
 - (c) If fitted with a meter the current "Fare Card" showing the tariffs for the Medway area.
5. The large Private Hire vehicle plate issued by the Medway Council in respect of the vehicle is to be affixed to the external rear of the vehicle. The proprietor shall not:
 - (a) Wilfully or negligently cause or suffer any Private Hire vehicle plate to be concealed from public view while the vehicle is being used or operated as a Private Hire vehicle.
 - (b) Cause or permit the vehicle to be used or operated as a Private Hire vehicle with either the said plates so defaced that any figure or material particular is illegible.
6. Any person driving his/her licensed vehicle, whether for hire and reward or social, domestic and pleasure purposes, holds a Private Hire Driver Licence issued by Medway Council.
7. The proprietor shall provide an efficient fire extinguisher, which shall be carried in such a position as to be readily available for use.
8. The vehicle and all its fittings and equipment shall at all times when the vehicle is in use or available for hire be kept in an efficient, safe, tidy and clean condition and all relevant statutory requirements (including in particular those contained in Motor Vehicles (Construction and Use Regulations) shall be fully complied with.

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APPENDIX D – FIRE EXTINGUISHERS

For Hackney Carriage and Private Hire Vehicles

Vehicles licensed up to 6 Seats 1 Kg Portable Powder Type Extinguisher

Vehicles licensed for 7+ Seats 2 Ltr AFFF (Aqueous Film Forming Foam) Extinguisher

Important Criteria for Fire Extinguishers

<p>All extinguishers must be stamped with the British Safety Kite mark This Kite mark means BSI has independently tested it and has confirmed that the product conforms to the relevant British Standard and has issued a BSI license to the company to use the Kite mark. The manufacturer pays for this service and their product is tested, and the manufacturing process is assessed, at regular intervals. The Kite mark is the symbol that gives consumers the assurance that the product they have bought really does conform to the appropriate British Standard and should therefore be safe and reliable.</p>	 BSI Kitemarked	
<p>Whatever type or make of fire extinguisher you choose, make sure it conforms to the appropriate British Standards (BS EN3)</p>	BS EN3	
<p>Many products must meet legal requirements before they can be sold within the European Community and must carry CE marking. CE marking attached to a product is a manufacturer's claim that it meets all the requirements of the European legislation.</p>	 CE Marked	
<p>They must have the British Approvals for Fire Equipment (BAFE) mark. Established in 1984, BAFE is the independent organisation dedicated to improving standards in fire protection. If you require fire protection you need to be sure that the companies who provide them have met all the appropriate standards and are independently audited. Statutory bodies, the Fire and Rescue Services, Insurers and leading Certification and Trade Bodies, support BAFE.</p>	 Logo combined with British Safety Kite mark	
<p>It must have a minimum Fire Rating</p>	5A 34B other fire ratings that are acceptable are 8A 55B	
<p>They must have metal heads and pressure gauges. Over the last few years there have been concerns raised over UV degradation of plastic components subject to pressure on portable fire extinguisher and there is no simple test to determine the level of UV degradation. These components are subjected to burst pressure tests at different ranges and are dangerous as they could explode.</p>		

Servicing Criteria

Annual Safety Check must take place between 11-13 months from the time of purchase or last service date. After five years from the date of purchase a discharge test is required or the fire extinguisher needs to be replaced.

Please Note: If your fire extinguisher has not been serviced within one year of purchase or the service history is broken longer than 13 months the fire extinguisher will require a discharge test or need to be replaced.

The Fire Industry Association, or the FIA as they are more commonly known, is a not-for-profit trade association with the aim of promoting the professional status of the UK fire safety industry. Therefore, servicing should be carried out by a FIA approved and certified individual. On servicing you need to request a certificate if not already presented as your proof of service. On licensing enforcement inspection or at the time of servicing it is advisable for the inspector to mark the appliance with the vehicle registration number for the avoidance of any unnecessary confusion of ownership of the appliance. Some authorised companies will place a service history sticker on the fire extinguisher as well as provide a certificate. Please keep the service certificate in your vehicle and presented on request with your fire extinguisher as proof of servicing.

Location of Extinguisher





Fire Extinguisher must be securely fastened inside the boot area of the vehicle, unless there is a specific location in the front that is designated for this purpose and the fire extinguisher can be securely fastened.

Enforcement Action

Licensing Enforcement Officers when carrying out inspections will take the following action: -

- **No Fire Extinguisher = Suspension of the Vehicle** until such time as an appointment is made to re-present to an enforcement officer with the correct Extinguisher. On an officer determining the extinguisher is compliant with this document the suspension will be lifted.
- **Fire Extinguisher that are Out of Date or Service History Issues = Will be given 3 days to comply** (excluding Sundays and Bank Holidays). **Failure to make an appointment to re-present the vehicle to an enforcement officer in 3 days** with the correct fire extinguisher / service history will result in the **vehicle being Suspended**. The vehicle will remain suspended until such time as an appointment is made to re-present to an enforcement officer with the correct Extinguisher / Service History. On an officer determining the extinguisher is compliant with this document the suspension will be lifted.

General Information on Fire Extinguishers

<p>Foam</p> 	<p>These are ideal where both A & B class fire risks exist.</p> <p>AFFF (Aqueous Film Forming Foam) is particularly suited to class B fires caused by the combustion of materials that liquefy such as petrol, oils, fats, paints, tar etc. This equipment has passed the 35kv electrical conductivity test.</p> <p>Class A Safe for wood, paper, textiles</p> <p>Class B Flammable liquids</p> <p>Not safe for live electrical equipment or flammable metal fires</p>	
<p>Dry Powder</p> 	<p>These are suitable for mixed fire risk environments and are especially suited for flammable liquids and fires involving flammable gases such as methane, propane, hydrogen, natural gas etc. This range offers a combination of fire performance and ease of service.</p> <p>Class A Safe for wood, paper, textiles</p> <p>Class B Flammable liquids</p> <p>Class C Gaseous fires, live electrical equipment</p>	

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APPENDIX E – FLAGS AND ADVERTS

ADVERTISEMENTS / BADGES / FLAGS are not to be displayed on any glazed area and must not be liable to cause offence to any members of the public or Council in terms of decency, race or religion. The advertisements, badges, emblems or flags must not contain or promote the use or purchase of any of the following topics or products:

Tobacco

Alcohol

Anything with a sexual nature or content

Anything with a political nature or content

Note: *This list may from time to time be amended or added to.*

Interior – FX4 Type Vehicle

Advertisements/badges/flags may only be displayed within the passenger compartment on the base of the occasional seats and along the bulkhead above the passenger/driver partition. Occasional seat advertisements must be encapsulated in clear non-flammable plastic and bulkhead advertisements must be manufactured in an approved material. No material may be placed on the passenger driver partition other than notices, which may be approved from time to time.

Interior – Saloon Type Vehicle

Internal advertisements / badges / flags are permitted provided that they are not displayed on or near any glazed area.

Exterior

The exterior of the vehicle may use as the advertising medium, the exterior body shell, except the front driver and passenger doors (with the exception of London Taxi style vehicles where advertising is permitted over the whole body shell of the vehicle). The front doors of the vehicle are to be clear of all advertising, logos, emblems, badges or flags that have not been approved by the Licensing Unit.

Approval

- (a) Advertisements, badges, emblems or flags must be of a form that do not become easily soiled or detached.
- (b) The licensing manager must approve all materials used in the manufacture of and for the purpose of affixing advertisements, badges, emblems or flags to the cab.
- (c) Applications for approval of advertisements, badges, emblems or flags must be made in writing to the Licensing Unit on the appropriate form

Adverts/Badges/Emblems/Flags

No advertisements, badges, emblems or flags, including the stick-on type, is to be exhibited other than as provided for in the directions contained in the above paragraphs.

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APPENDIX F – APPLICATION PROCEDURES

1. Application Procedures – New Drivers (Grant)

- 1.1 Applications for hackney carriage or private hire drivers' licences may be made at any time of the year. Applicants shall hold a full driving licence issued in the UK, the European Community (EC) or one of the other countries in the European Economic Area (EEA). In addition any applicants who hold an EC/EEA driving licence shall also have a GB counterpart document.
- 1.2 Applicants shall have held a UK, EC or EEA driving licence for a least 12 months and be aged 18 years or over.
- 1.3 Applicants will be required to complete an application form for an Enhanced Disclosure from the Disclosure and Barring Service (DBS) on first application and every 3 years thereafter. Personal identification requirements are detailed on the DBS website <http://www.gov.uk/government/publications/dbs-application-forms-guide-for-applicants> Applicants will also need to provide their national insurance number.
- 1.4 All applicants will be required to provide their driving licence with the completed DVLA Disclosure mandate. A check will be made with the DVLA regarding the validity of the driving licence presented and any outstanding convictions, penalty points and whether the licence is still valid. A charge will normally be made for this service and the applicant must meet all fees
- 1.5 All applicants shall provide a completed medical examination form supplied by the Authority and completed by a general practitioner on first application and at 5 yearly intervals until the age of 55 then every 3 years until the age of 61, thence annually, and at reasonable time at the request of the Council. The medical practice is likely to make a charge for this service. The applicant must meet all fees.
- 1.6 All applicants must provide a minimum of 5 years address history. If an applicant has lived outside of the UK for any part of the previous 5 years then certificates of good conduct must be obtained from the Police at each place of residence detailing any driving or criminal convictions. Certificates must be translated into English at the applicants expense and must also be verified genuine by the relevant embassy in the UK for the country of origin.
- 1.7 All applicants must make a declaration that they have a statutory right to work in the UK and any applicant that has a limited right to work will not be issued a driver licence for a period longer than that limited period. Checks will be made with partner agencies including the UK Border Agency and HMRC. Students from overseas are advised that they are not currently able to work as self- employed drivers and must therefore be employed. They must also not

work for more than 20 hours per week.

- 1.8 A Statutory Declaration must be completed and signed by you in front of a Solicitor/Commissioner for Oaths, who must then also sign the form.
- 1.9 All applications must include two identical recent photographs and be a true likeness of the applicant. One photograph must be certified by an acceptable counter signatory who has known the applicant personally for at least two years. The counter signatory must sign and date the Form of Endorsement. The person providing the countersignature must not be related to the applicant by birth or marriage. Neither should they be in a personal relationship with the applicant.
- 1.10 A fee will be required for the application, DBS Disclosure and DVLA Disclosure. Payment for the application and DBS can only be made with a debit/credit card, cheque or postal order. Payment for the DVLA must be made by cheque; payable to the DVLA.
- 1.11 Completed applications must be posted by Royal Mail Special or Recorded Delivery to the Licensing Unit, Medway Council, Gun Wharf, Dock Road, Chatham, Kent ME4 4TR. Applications are valid for one year from the date of the DSA pass certificate.
- 1.12 In order to maintain the high standards that the Authority expects of its drivers operating within the Town, knowledge of locations and places of interest is assessed by the Authority through its communication and local knowledge test.
- 1.13 The knowledge test must be passed as part of the application process. A communications test may also be required for applicants where English is not their first language.
- 1.14 The local knowledge test is written and aims to identify knowledge of locations of places of interest and the shortest distance between routes.

2. Application Procedures – Existing Drivers (Renewal)

- 2.1 Applicants will be required to complete an application for renewal form.
- 2.2 Applicants will be required to complete an application form for an Enhanced Disclosure from the Disclosure and Barring Service (DBS). Personal identification requirements are detailed on the CRB website <http://www.homeoffice.gov.uk/agencies-public-bodies/crb/> Applicants will also need to provide their national insurance number.
- 2.3 All applicants will be required to provide their driving licence with the completed DVLA Disclosure mandate. A check will be made with the DVLA regarding the validity of the driving licence presented and any outstanding convictions, penalty points and whether the licence is still valid. A charge will

normally be made for this service and the applicant must meet all fees.

- 2.4 All applications must include two identical recent photographs and be a true likeness of the applicant.
- 2.5 A fee will be required for the application, DBS Disclosure and DVLA Disclosure. Payment for the application and DBS can only be made with a debit/credit card, cheque or postal order. Payment for the DVLA must be made by cheque; payable to the DVLA.
- 2.6 Completed applications must be posted by Royal Mail Special or Recorded Delivery to the Licensing Unit, Medway Council, Gun Wharf, Dock Road, Chatham, Kent ME4 4TR. Applications are valid for one year from the date of the DSA pass certificate.

3. Consideration of Applications

- 3.1 On receiving the Enhanced Disclosure from the DBS applicants must send this to the Licensing Unit. New applicants shall make an appointment with the Authority and at that appointment provide the completed application form and necessary fees, driving licence, medical form, DSA Certificate and any other relevant certificates. **Disclosure and medical forms will not be accepted if more than 1 months old.**
- 3.2 If satisfied, from the information available, that the applicant is a fit and proper person to hold a licence, the Licensing Team has delegated power to grant the application and issue a licence for a maximum period of three years.
- 3.3 Two driver badges will also be issued which shall remain the property of the Authority and must be surrendered if the driver licence is suspended or revoked by the Authority. One badge shall be displayed on the driver's person at all times they are acting as a licensed driver and the other to be displayed in the vehicle.
- 3.4 If the Authority is not satisfied, on the information before it, that the applicant shall be granted a licence, the Licensing Team has delegated authority to refuse to grant the licence. In some cases the matter may be referred to the Licensing and Safety Sub Committee for a hearing where the application will be determined.

4 Application Procedures – Vehicles

- 4.1 All unlicensed vehicles shall be presented to the Licensing Unit for a specification check. Prior to submitting the vehicle for examination, proprietors shall ensure that the vehicle is in good condition, i.e. mechanically sound, bodywork satisfactory and interior cleaned.

- 4.2 Vehicle proprietors shall make arrangements directly with one of Medway Council's approved MOT vehicle testing stations to have vehicles tested. When attending the MOT appointment the following documents **MUST** be produced:
- (i) **DVLA Registration Document** (which must show the vehicle as belonging to the applicant either wholly or jointly with any other person(s) hereinafter described as proprietor(s) hereof);
 - (ii) **Valid Certificate of Insurance;**
- 4.3 A fee will be required for the vehicle inspection and must be made directly to the garage.
- 4.4 Vehicle proprietors shall make a plating appointment to collect the vehicle licence plate.
- 4.5 A fee will be required for the vehicle licence and can only be made with a debit/credit card prior to the appointment or cheque/postal order at the time of the appointment.
- 4.6 Appointments are to be arranged with Customer Contact Team.
- 4.7 When attending the plating appointment, the following documents **MUST** be produced:
- (i) **Application Form** Completed and signed by the vehicle proprietor.
 - (ii) **Vehicle Inspection Sheet** Completed and signed by one of Medway Council's Approved MOT Testing Station
 - (iii) **Fee or Receipt**

APPENDIX G - RELEVANCE OF CONVICTIONS TO APPLICATIONS

1. Introduction

- 1.1 For ease of application and determination the following guidelines shall be used to determine the relevance of criminal and other convictions in relation to applications for hackney carriage and private hire driver licences and private hire operator licences.
- 1.2 It shall be noted that since 2002 hackney carriage and private hire vehicle drivers are exempt from the protection of the Rehabilitation of Offenders Act 1974, so that all convictions, spent or otherwise, can be considered in respect of an application for the grant, renewal or cancellation of a licence to be a hackney carriage or private hire vehicle driver.
- 1.3 These guidelines are not exhaustive, convictions, cautions and/or warnings that are not covered within these guidelines will still be considered and determined on their own merits.

2. General Policy

- 2.1 In order to be licensed by the local authority as a hackney carriage or private hire driver the driver must show that he/she is a fit and proper person. The local authority will require an enhanced DBS disclosure. This will include disclosure, not only of previous convictions, but also matters of concern in relation to children or vulnerable adults. In the case of taxis drivers the Rehabilitation of Offenders Act does not apply so previous convictions are never "spent" and must be declared. However the fact that an applicant has previous convictions does not necessarily mean they will be barred from being a licensed driver.
- 2.2 The definition of what is a fit and proper person is not set in law however the generally accepted test is

" Would you allow your son daughter, mother, spouse or other person you care about get into this vehicle with this person alone?"
- 2.3 This rule was confirmed in discussion by Silber J. in the case of Leeds City Council v Hussain that surrounds the suspension of a driver:

"... the purpose of the power of suspension is to protect the users of licensed vehicles and those who are driven by them and members of the public. Its purpose is to prevent licences being given to or used by those who are not suitable people taking into account their driving record, their driving experience, their sobriety, mental and physical fitness, honesty, and that they are people who would not take advantage of their employment to abuse or assault people"
- 2.4 The sections below set out some further examples of how this test may be applied with reference to some offences

3. Minor Traffic Offences

- 3.1 Convictions for minor traffic offences such as obstruction, waiting in a restricted street, speeding etc shall not necessarily prevent a person from proceeding with an application and each application will be treated on its own merits.
- 3.2 If sufficient DVLA penalty points have been accrued to require a period of disqualification of the applicant's driving licence then an application for a new hackney carriage or private hire vehicle driver's licence may be granted after the restoration of the DVLA driving licence. A warning letter shall, however, be issued to such licence holders about future driving standards. Drivers who have submitted application to renew will have their licence suspended until the expiry of the current licence and a new licence will not take effect until the restoration of the DVLA driving licence.

4. Major Motoring Offences

- 4.1 Convictions for motoring offences including but not restricted to: -

- Reckless driving;
- Driving without due care and attention;
- Driving with no valid insurance;
- Using a motor vehicle in an unfit condition; and
- Driving whilst disqualified

Will raise concern as to the applicant's fitness to hold a licence. A minimum of 3 years ought to have elapsed since the incident before the Authority will consider such an application. An applicant can, however, request that the application be referred to the Licensing and Safety Sub Committee for determination.

- 4.2 A conviction for causing death by dangerous driving or any other conviction for causing death by driving under The Road Traffic Act 1988 as amended, shall result in the application automatically being referred to the Licensing and Safety Sub Committee for determination.

5. Drunkenness

5.1 With a motor vehicle

- 5.1.1 A serious view shall be taken of convictions for driving or being in charge of a vehicle whilst under the influence of alcohol or other substances. A single conviction for these offences will raise serious concerns as to the applicant's fitness to hold a licence. At least 3 years shall have elapsed since the restoration of the DVLA driving licence before such an applicant is granted a licence.
- 5.1.2 More than one conviction shall result in the application automatically being

referred to the Licensing and Safety Sub Committee.

- 5.1.3 If there is any suggestion that the applicant is an alcoholic or has an alcohol dependency, a medical examination shall be arranged by the Authority before the application is considered. If the applicant is found to be an alcoholic, a period of 3 years must elapse after treatment is successfully completed before an application can be considered further. An applicant can, however, request the application be referred to the Licensing and Safety Sub Committee.

5.2 Not in a motor vehicle

- 5.2.1 An isolated conviction for drunkenness shall not debar an applicant from obtaining a licence. However, more than one conviction for drunkenness could indicate a problem necessitating a medical examination to be arranged. If the applicant is found to be an alcoholic, a period of 3 years must elapse after treatment is successfully completed before an application can be considered. An applicant can, however, request the application be referred to the Licensing and Safety Sub Committee.

6. Drugs

- 6.1 An applicant with a conviction for a drug related offence shall be required to show a period of at least 3 years free of convictions before an application is considered or 5 years after the successful completion of detoxification treatment if an addict. An applicant can, however, request the application be referred to the Licensing and Safety Sub Committee.

7. Sexual or Indecency Offences

- 7.1 Hackney carriage and private hire drivers often carry unaccompanied passengers, including children and vulnerable adults. Applicants with a conviction for any sexual offence shall not be considered for a licence until a period of 5 years has elapsed since the offence. More than one conviction of this kind will preclude the granting of a licence for 10 years. **All** such applications will, in any case, be referred to the Licensing and Safety Sub Committee.

8. Violence

- 8.1 As hackney carriage and private hire drivers have close contact with the general public, a serious view will be taken of applicants who have a conviction for violent conduct. At least 3 years shall have elapsed since the incident before an application will be considered. An applicant can, however, request the application be referred to the Licensing & Safety Sub Committee.

9. Dishonesty

- 9.1 Hackney carriage and private hire drivers are expected to be trustworthy. The delivery of unaccompanied property is indicative of the trust that businesses place in licensed drivers. Moreover, it is comparatively easy for dishonest drivers to defraud the

public, for example by demanding more than the normal fare. Overseas visitors, in particular can be confused due to the change in currency. For these reasons a serious view will be taken of any convictions involving dishonesty. At least 3 years shall have elapsed since the incident before an application will be considered. An applicant can, however, request the application be referred to the Licensing and Safety Sub Committee.

10. Other Offences and special circumstances

- 10.1 If an applicant has declared or committed any other offence not listed above or the circumstances of the case justify it, the Licensing Team Leader may consider it appropriate to refer it to the Licensing and Safety Sub Committee for determination

APPENDIX H - HACKNEY CARRIAGE BYELAWS

MEDWAY COUNCIL BYELAWS

Made under Section 68 of the Town Police Clauses Act 1847 and section 171 of the Public Health Act 1875, by Medway Council with respect to hackney carriages in the Borough of Medway

Interpretation

1. Throughout these byelaws “the Council” means Medway Council and “the district” means the Borough of Medway.

Provisions Regulating The Manner In Which The Number Of Each Hackney Carriage Corresponding With The Number Of Its Licence Shall Be Displayed.

2. (a) The proprietor of a hackney carriage shall cause the number of the licence granted to him in respect of the carriage to be legibly painted or marked on the outside and inside of the carriage, or on plates affixed thereto.
- (b) A proprietor or driver of a hackney carriage shall:
 - (i) not wilfully or negligently cause or suffer any such number to be concealed from public view while the carriage is standing or plying for hire;
 - (ii) not cause or permit the carriage to stand or ply for hire with any such painting, marking or plate so defaced that any figure or material particular is illegible.

Provisions Regulating How Hackney Carriages Are To Be Furnished Or Provided.

3. The proprietor of a hackney carriage shall:
 - (a) provide sufficient means by which any person in the carriage may communicate with the driver;
 - (b) cause the roof or covering to be kept watertight;
 - (c) provide any necessary windows and a means of opening and closing not less than one window on each side;
 - (d) cause the seats to be properly cushioned or covered;
 - (e) cause the floor to be provided with a proper carpet, mat or other suitable covering;
 - (f) cause the fittings and furniture generally to be kept in a clean condition, well maintained and in every way fit for public service;

- (g) provide means for securing luggage if the carriage is so constructed as to carry luggage;
 - (h) provide an efficient fire extinguisher which shall be carried in such a position as to be readily available for use;
 - (i) provide at least two doors for the use of persons conveyed in such carriage and a separate means of ingress and egress for the driver.
4. The proprietor of a hackney carriage shall cause the same to be provided with a taximeter so constructed, attached and maintained as to comply with the following requirements, that is to say,
- (a) the taximeter shall be fitted with a key, flag or other device, the turning of which will bring the machinery of the taximeter into action and cause the word HIRED to appear on the face of the taximeter;
 - (b) such key or device shall be capable of being locked in such a position that the machinery of the taximeter is not in action and that no fare is recorded on the face of the taximeter;
 - (c) when the machinery of the taximeter is in action there shall be recorded on the face of the taximeter in clearly legible figures a fare not exceeding the rate or fare which the proprietor or driver is entitled to demand and take for the hire of the carriage by time as well as for distance in pursuance of the tariff fixed by the Council;
 - (d) the word "FARE" shall be printed on the face of the taximeter in plain letters so as clearly to apply to the fare recorded thereon;
 - (e) the taximeter shall be so placed that all letters and figures on the face thereof are at all times plainly visible to any person being conveyed in the carriage, and for that purpose, the letters and figures shall be capable of being suitably illuminated during any period of hiring; and
 - (f) the taximeter and all the fittings thereof shall be so fixed to the carriage with seals or other appliances that it shall not be practicable for any person to tamper with the except by breaking, damaging or permanently displacing the seals or other appliances.

Provisions Regulating The Conduct Of The Proprietors And Drivers Of Hackney Carriages Plying Within The District In Their Several Employments, And Determining Whether Such Drivers Shall Wear Any And What Badges

5. The driver of a hackney carriage provided with a taximeter shall:
- (a) when standing or plying for hire, keep the key, flag or other device fitted in pursuance of the byelaw in that behalf locked in the position in which no fare is recorded on the face of the taximeter;

- (b) before beginning a journey for which a fare is charged for distance and time, bring the machinery of the taximeter into action by moving the said key, flag or other device, so that the word "HIRED" is legible on the face of the taximeter and keep the machinery of the taximeter in action until the termination of the hiring; and
 - (c) cause the dial of the taximeter to be kept properly illuminated throughout any part of a hiring which is between half-an-hour after sunset to half-an-hour before sunrise and also at any other time at the request of the hirer.
- 6. The proprietor or driver of a hackney carriage shall not tamper with or permit any person to tamper with any taximeter with which the carriage is provided, with the fittings thereof, or with the seals affixed thereto.
- 7. The driver of a hackney carriage shall, when plying for hire in any street and not actually hired: -
 - (a) proceed with reasonable speed to one of the stands appointed by the Council;
 - (b) if a stand, at the time of his arrival, is occupied by the full number of carriages authorised to occupy it, proceed to another stand;
 - (c) on arriving at another stand not already occupied by the full number of carriages authorised to occupy it, station the carriage immediately behind the carriage or carriages on the stand and so as to face in the same direction; and
 - (d) from time to time when any other carriage immediately in front is driven off or moved forward cause his carriage to be moved forward so as to fill the place previously occupied by the carriage driven off or moved forward;
- 8. The proprietor or driver of a hackney carriage, when standing or plying for hire, shall not, by calling out or otherwise, importune any person to hire such carriage and shall not make use of the services of any other person for the purpose.
- 9. The driver of a hackney carriage shall behave in a civil and orderly manner and shall take all reasonable precautions to ensure the safety of persons conveyed in or entering or alighting from the vehicle.
- 10. The proprietor or driver of a hackney carriage who has agreed or has been hired to be in attendance with the carriage at an appointed time and place shall, unless delayed or prevented by some sufficient cause, punctually attend with such carriage at such appointed time and place.
- 11. The proprietor or driver of a hackney carriage shall not convey or permit to be conveyed in such carriage any greater number of persons than the number of persons specified on the plate affixed to the outside of the carriage.
- 12. If the badge has been provided by the Council and delivered to the driver of a hackney carriage, he shall, when standing, plying or driving for hire display that badge in such a position and manner as to be plainly visible.

- 13 The driver of a hackney carriage so constructed as to carry luggage shall, when requested by any person hiring or seeking to hire the carriage,
- (a) convey a reasonable quantity of luggage;
 - (b) afford reasonable assistance in loading and unloading;
 - (c) afford reasonable assistance in removing it to or from the entrance of any building, station, or place at which he may take up or set down such person.

Provisions Fixing The Rates Or Fares To Be Paid For Hackney Carriages And Securing The Due Publication Of Such Fares

14. (i) The proprietor or driver of a hackney carriage shall be entitled to demand and take for the hire of the carriage the rate or fare prescribed by the Council, the rate or fare being calculated by a combination of distance and time unless the hirer express at the commencement of the hiring his desire to engage by time.
- (ii) Where a hackney carriage furnished with a taximeter is hired by distance and time the proprietor or driver thereof shall not be entitled to demand and take a fare greater than that recorded on the taximeter, save for any extra charges authorised by the Council which it may not be possible to record on the face of the taximeter.
15. (i) The proprietor of a hackney carriage shall cause a statement of the fares fixed by Council resolution to be exhibited inside the carriage, in clearly distinguishable letters and figures; and
- (ii) The proprietor or driver of a hackney carriage bearing a statement of fares in accordance with this byelaw shall not wilfully or negligently cause or suffer the letters or figures in the statement to be concealed or rendered illegible at any time while the carriage is plying or being used for hire.

Provisions Securing The Safe Custody And Re-Delivery Of Any Property Accidentally Left In Hackney Carriages, And Fixing The Charges To Be Made In Respect Thereof

16. The proprietor or driver of a hackney carriage shall, immediately after termination of any hiring, or as soon as practicable thereafter, carefully search the carriage for any property which may have been accidentally left therein.
17. The proprietor or driver of a hackney carriage shall if any property accidentally left therein by any person who may have been conveyed in the carriage be found by or handed to him: -
- (a) carry it as soon as possible and in any event within 24 hours, if not sooner claimed by or on behalf of its owner, to the office of the Council and leave it in the custody of the officer in charge of the office on his giving a receipt for it: and
 - (b) be entitled to receive from any person to whom the property shall be re-delivered an amount equal to five pence in the pound of its estimated value (or the fare for the distance from the place of finding to the office of the Council, whichever be the

greater) but not more than five pounds.

Penalties

18. Every person who shall offend against any of these byelaws shall be liable on summary conviction to a fine not exceeding Level 2 on the Standard Scale and in the case of a continuing offence to a further fine not exceeding two pounds for each day during which the offence continues after conviction therefore.

Repeal Of Byelaws

19. The Byelaws relating to hackney carriages which were made by Gillingham Borough Council and Rochester Upon Medway City Council on the 7th day of November 1988 and confirmed by one of Her Majesty's Principal Secretaries of State on the 1st day of March 1989, are hereby repealed.

THE COMMON SEAL of the said
MEDWAY COUNCIL was hereunto affixed this
12th day of August 2011 in the presence of:

Authorised Signatory

The foregoing Byelaw is HEREBY
CONFIRMED by the Secretary of State and
shall come into operation on the 9th day of
December 2011.

Signed by authority of the Secretary of State

CERTIFICATION OF BYELAW PURSUANT TO SECTION 238 OF THE LOCAL GOVERNMENT ACT 1972 (as amended)

I, Angela Drum, Solicitor of Medway Council, HEREBY CERTIFY that the attached document is a true copy of the Byelaws with respect to Hackney Carriages.

I, Angela Drum, further certify that the aforesaid byelaw:

- (a) was made by Medway Council on 12 August 2011
- (b) was confirmed by the Secretary of State for Transport
- (c) came into force on the

SIGNED

Dated this 12th day of August 2011

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APPENDIX I – HACKNEY CARRIAGE DRIVERS LICENCE CONDITIONS

Conditions subject to which this Licence is issued

1. The Hackney Carriage Driver shall not
 - (a) wilfully or negligently cause or suffer the number of the licence issued by Medway Council and affixed to the inside and outside of the vehicle on plates issued by Medway Council to be concealed from public view.
 - (b) cause or permit the vehicle to operate with the plates so defaced or dirty that any figure or material particular is illegible.
2. The Driver shall cause the fittings and furniture of the vehicle generally to be kept in a clean condition and in every way fit for public service.
3. The Driver shall behave in a civil and orderly manner and shall take all reasonable precautions to ensure the safety of persons conveyed in or entering or alighting from the vehicle.
4. The Driver having agreed or having 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.
5. The Driver when hired to drive to any particular destination shall, subject to any directions given by the hirer, proceed to that destination by the shortest route.
6. The Driver shall not convey or permit to be conveyed in the vehicle any greater number of persons than the number of persons specified on the plate affixed to the outside on the vehicle, except as permitted in the current Bylaws.
7. The driver shall when requested by any person hiring or seeking to hire the vehicle:
 - (a) convey a reasonable quantity of luggage;
 - (b) afford reasonable assistance in loading and unloading;
 - (c) afford reasonable assistance in removing it to or from the entrance of any building, station, or place at which he may take up or set down such person.
8. The Driver shall immediately after the termination of any hiring or as soon as practicable thereafter carefully search the vehicle for any property which may have been accidentally left therein.
9. The Driver shall if any property accidentally left therein by any person who may have been conveyed in the vehicle be found by or handed to him:
 - (a) convey it as soon as possible and in any event within 48 hours if not sooner claimed by or on behalf of its owner to the office of the Council at Gun Wharf, Dock Road, Chatham, Kent and leave it in the custody of the Licensing Unit.
 - (b) be entitled to receive from any person to whom the property shall be redelivered an amount equal to five pence in the pound of its estimated value (or the fare for the

distance from the place of finding to the offices of the Council whichever be the greater) but no more than five pounds.

10. If the Driver drives or proposes to drive a licensed vehicle, for Public or Private Hire during any period of 24 hours commencing at midnight and ending at midnight the following day, he shall not engage in any other form of employment during that period except as may be approved by Medway Council.
11. The Driver shall not without the consent of the hirer of the vehicle convey or permit to be conveyed any other person in that vehicle.
 - (1) The Driver shall not convey in the vehicle any animal belonging to or in the custody of himself or the proprietor or operator of the vehicle.
 - (2) Any animal belonging to or in the custody of any passenger, which the Driver permits to be conveyed in the vehicle, shall only be conveyed in the rear of the vehicle.

APPENDIX J – PRIVATE HIRE DRIVERS LICENCE CONDITIONS

Conditions subject to which this Licence is issued

1. The Private Hire Driver shall not
 - (a) wilfully or negligently cause or suffer the number of the licence issued by Medway Council and affixed to the inside and outside of the vehicle on plates issued by Medway Council to be concealed from public view.
 - (b) cause or permit the vehicle to operate with the plates so defaced or dirty that any figure or material particular is illegible.
2. The Driver shall cause the fittings and furniture of the vehicle generally to be kept in a clean condition and in every way fit for public service.
3. The Driver shall behave in a civil and orderly manner and shall take all reasonable precautions to ensure the safety of persons conveyed in or entering or alighting from the vehicle.
4. The Driver having agreed or having 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.
5. The Driver when hired to drive to any particular destination shall, subject to any directions given by the hirer, proceed to that destination by the shortest route.
6. The Driver shall not convey or permit to be conveyed in the vehicle any greater number of persons than the number of persons specified on the plate affixed to the outside on the vehicle,
7. The driver shall when requested by any person hiring or seeking to hire the vehicle:
 - (a) convey a reasonable quantity of luggage
 - (b) afford reasonable assistance in loading and unloading;
 - (c) afford reasonable assistance in removing it to or from the entrance of any building, station, or place at which he may take up or set down such person.
8. The Driver shall immediately after the termination of any hiring or as soon as practicable thereafter carefully search the vehicle for any property which may have been accidentally left therein.
9. The Driver shall if any property accidentally left therein by any person who may have been conveyed in the vehicle be found by or handed to him:
 - (a) convey it as soon as possible and in any event within 48 hours if not sooner claimed by or on behalf of its owner to the office of the Council at Gun Wharf, Dock Road, Chatham, Kent and leave it in the custody of the Licensing Authority.
 - (b) be entitled to receive from any person to whom the property shall be redelivered an amount equal to five pence in the pound of its estimated value (or the fare for the

distance from the place of finding to the offices of the Council whichever be the greater) but no more than five pounds.

10. If the Driver drives or proposes to drive a private hire vehicle during any period of 24 hours commencing at midnight and ending at midnight the following day, he shall not engage in any other form of employment during that period except as may be approved by Medway Council.
11. The Driver shall not without the consent of the hirer of the vehicle convey or permit to be conveyed any other person in that vehicle.
12. (1) The Driver shall not convey in the vehicle any animal belonging to or in the custody of himself or the proprietor or operator of the vehicle.
(2) Any animal belonging to or in the custody of any passenger, which the Driver permits to be conveyed in the vehicle, shall only be conveyed in the rear of the vehicle.

APPENDIX K - CODE OF GOOD CONDUCT

This Code shall be read in conjunction with the other statutory and policy requirements set out in this document.

1 Responsibility to the Trade

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

- (a) complying with this Code of Good Conduct;
- (b) complying with all the conditions of their licence, byelaws and the Authority's Hackney Carriage and Private Hire Licensing Policy;
- (c) behaving in a civil, orderly and responsible manner at all times; and
- (d) sign to acknowledge the Code of Conduct.

2 Responsibility to Clients

Licence holders shall:

- (a) maintain their vehicles in a safe and satisfactory condition at all times;
- (b) keep their vehicles clean and suitable for hire to the public at all times;
- (c) attend punctually when undertaking pre-booked hires;
- (d) assist, where necessary, passengers into and out of vehicles; and
- (e) provide passengers reasonable assistance with luggage.

3 Responsibility to Residents

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

- (a) not sound the vehicle's horn after 11.30pm or from a stationary vehicle;
- (b) keep the volume of music media player and VHF radios to a minimum;
- (c) switch off the engine if required to wait; and
- (d) take whatever additional action is necessary to avoid disturbance to residents in the neighbourhood.

- (e) not double park or obstruct driveways and/or access points etc.

4 Responsibilities at Ranks and Offices

Licence holders shall:-

- (a) rank in an orderly manner and proceed along the rank in order and promptly;
- (b) remain in attendance of the vehicle;
- (c) not allow their music media players or VHF radios to cause disturbance to residents of the neighbourhood; and
- (d) take whatever additional action is necessary to avoid disturbance to residents of the neighbourhood, which might arise from the conduct of their business.

5 General

Driver's shall:-

- (a) be polite, helpful and fair to passengers;
- (b) drive with care and due consideration for other road users and pedestrians;
- (c) obey all Traffic Regulation Orders and directions at all time;
- (d) not consume alcohol before or at any time whilst driving or being in charge of a hackney carriage or private hire vehicle;
- (e) not drive while having misused legal or taken illegal drugs;
- (f) fulfil their responsibility to ensure compliance with legislation regarding the length of working hours;
- (g) not eat in the vehicle in the presence of customers;
- (h) not smoke in the vehicle at any time; and
- (i) respect authorised officers at Authority offices and elsewhere during their normal course of their duties.

6

Disciplinary Hearings

Drivers shall be aware of the powers the Authority has to take action, by way of suspension, revocation or refusal to renew a driver's licences where:-

- (a) the driver has been convicted , since the grant of the licence, of an offence involving dishonesty, indecency or violence;
- (b) the driver has been convicted of an offence under the legislation or Hackney Carriage and Private Hire Licensing Policy relating to taxi and private hire regulation; and
- (c) there is a breach of condition or this code.
- (d) there is a breach of the maximum number of penalty points under the Medway Council penalty points system
- (e) any other reasonable cause

Guidelines for dealing with offences committed by licence holders are detailed in **Appendices N and O.**

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APPENDIX L - DRESS CODE AND HYGIENE

The Authority is committed to encouraging the professional image of the trade and it considers that drivers shall conform to a minimum standard of dress, as set out below, in order to raise and maintain the profile of the licensed trade. Whilst the Authority does not wish to impose such standards by way of conditions to any licence it expects, however, that such standards will be maintained at all times.

Personal Hygiene

- (1) Pay attention to personal hygiene and dress so as to present a professional image to the public;

Acceptable Standards of Dress within this code

- (1) **Tops**
 - Shirts, blouses, T-shirts, or sweat tops shall cover the shoulders and be capable of being worn inside trousers or shorts.
 - Shirts or blouses can be worn with a tie or open-necked.
- (2) **Trousers/Shorts/Skirts**
 - Trousers may be either full length or shorts if tailored.
 - Female drivers shall not wear short skirts.
 - Smart jeans type trousers permitted.
- (3) **Footwear**
 - Footwear shall not prevent the driver from being in full control of the vehicle at all times

Examples of Unacceptable Standards of Dress within this Code

- Bare chests
- Unclean or damaged clothing or footwear
- Clothing with offensive words, logos or graphics
- Clothing with studs or sharp edges

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APPENDIX M - PRIVATE HIRE OPERATOR'S LICENCE CONDITIONS

1 Standards of Service

The operator shall:

- 1.1 Provide a prompt, efficient and reliable service to members of the public at all reasonable times;
- 1.2 Ensure that office staff behave in a civil and orderly manner at all times, in particular do not drink or take drugs on duty;
- 1.3 Ensure that when a vehicle has been hired, it arrives punctually at the appointed place, unless delayed by unforeseen circumstances;
- 1.4 Ensure that premises provided for the purpose of hiring or waiting are kept clean, adequately lit, heated and ventilated; and
- 1.5 Ensure that any waiting area provided has adequate seating facilities and if provided any telephone facilities are in good working order.
- 1.6 Ensure that any sanitary conveniences and washing facilities provided for customers and/or licensed drivers and vehicle proprietors are located in readily accessible places in the building. They and the rooms containing them shall be kept clean and be adequately ventilated and lit. Washing facilities shall have running hot and cold or warm water, soap and clean towels or other means of cleaning or drying. Men and women shall have separate facilities unless each facility is in a separate room with a lockable door and is for use by only one person at a time.
- 1.7 Ensure any description or statements attached to their services are clear and unambiguous. Any claims of approval or recognition must be accurate and not be misleading or false.

2 Records

- 2.1 Records shall be kept by operators in a suitable form that does not permit backdating and in a form easily able to be inspected by authorised officers and the Police.
- 2.2 Extracts of the records shall be available to be taken away by authorised officers or the police.
- 2.3 All records maintained by the operator shall be kept for at least 12 months after entry and shall be produced for inspection, on request, by any authorised officer or Police officer.

3 Bookings

- 3.1 Prior to each journey, the operator shall enter the following particulars of every booking in the above records:
- the date of the booking;
 - the name of the hirer;
 - the time and date of pick-up;
 - the address of the point of pick-up;
 - the destination;
 - the plate number of the vehicle allocated;
 - the badge number (or other identification) of the driver allocated; and
 - the details of any booking sub contracted to another licensed operator or hackney carriage.

4 Vehicles

- 4.1 The operator shall keep a copy of licences issued by the Authority, for private hire vehicles it operates.

5 Drivers

- 5.1 The operator shall keep a copy of licences issued by the Authority, for drivers it operates.
- 5.2 The operator shall keep records of the following:-
- driver call signs;
 - date of when a new driver begins service; and
 - date when a driver ceases service;
- 5.3 If the operator becomes aware that any driver is suffering from any illness, disability or condition which may affect the driver's ability to drive then they shall inform the Authority as soon as practicable.
- 5.4 Private Hire Operators shall provide the Licensing Team with an up to date list of drivers on their circuit when required within 48 hours.
- 5.5 Private Hire Operators shall ensure that each driver on their circuit has a valid Driving licence, Private Hire Drivers Licence, and Insurance. If a driver cannot provide all of the required documentation then the Operator has a duty **not** to let the driver work on their circuit. A failure to ensure that drivers have the necessary documentation may result in the Operator being called before the Licensing and Safety Sub Committee for disciplinary measures.

6 Change of Details and/or Address

- 6.1 The operator shall apply to the Authority immediately for a new licence when any change affects the licence. A new licence must be obtained prior to operating from the new premises.

7 Disclosure of Convictions/Cautions and Warnings

- 7.1 The operator shall, within 14 days of conviction, notify the Authority in writing of any conviction, caution and warnings or fixed penalty notice imposed on him/her during the currency of his/her operator's licence. If the operator is a company or partnership, this requirement shall apply if any of the directors or partners receives a conviction, caution and warnings or fixed penalty notice.

8 Insurance

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

9 Display of Terms and Conditions

- 9.1 The operator shall keep a copy of these conditions at all premises used for a private hire business and shall make the same available for inspection by customers, authorised officers and the Police.

Note: Planning Consent

To operate a private hire business from a residential dwelling, planning permission, for such business use, will normally be required. A Private Hire Operator's Licence will not be granted without evidence that either planning permission has been issued for the premises concerned or planning permission is not required for the limited use proposed.

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APPENDIX N - ENFORCEMENT POLICY & PRACTICE

1 Enforcement Policy Statement

- 1.1 It is the statutory duty of the Authority to ensure that licensed drivers and operators are licensed correctly and carry out their trade in accordance with both the relevant law, byelaws, statutory notices and conditions attached to licences. All enforcement action is carried out in accordance with the Government's Regulators' Compliance Code. The purpose of the statutory code of practice is to embed a risk-based, proportionate, targeted and flexible approach to regulatory inspection and enforcement among the regulators it applies to. This approach shall ensure that the Authority is efficient and effective in carrying out its duties, without imposing unnecessary burdens on those it regulates.
- 1.2 All enforcement action, be it advice, oral warnings, written warnings, the imposition of penalty points, licence reviews, simple cautions or prosecutions, will primarily be based upon the seriousness of the breach or offence and the possible consequences arising out of it. Enforcement action will not, therefore, constitute a punitive response to minor technical contraventions of legislation.
- 1.3 Authorised officers making enforcement decisions will abide by this policy. Any departure from the policy must be exceptional, capable of justification, be fully considered and be endorsed by the Licensing Manager or above before the decision is taken (unless it is considered that there is significant risk to the public in delaying the decision).
- 1.4 Officers shall be authorised under delegated authority to take enforcement action relevant and appropriate to their level of competence. Competency will be assessed individually by reference to qualifications and experience.
- 1.5 Authorised officers shall exercise the principles of openness, helpfulness, proportionality, consistency and targeting in deciding on the correct enforcement approach to all circumstances. They shall be fair, independent and objective and shall not let any personal views about ethnic or national origin, sex, religious beliefs, political views or sexual orientation influence their judgement or approach.

2 General Policy

- 2.1 Licence holders must immediately report, in writing, all criminal convictions, police cautions, warnings and motoring offences, which occur during the currency of their licence to the Authority. In addition, breaches of the relevant legislation or conditions attached to driver, operator and vehicle licences may come to light following complaints and enforcement action or investigations. The action to be followed in response to such matters will be determined on its own merits.

2.2 Achieving and maintaining a consistency of approach to making all decisions that concern hackney carriage and private hire licensing and enforcement action, including prosecution, is of paramount importance. To achieve and maintain consistency, it is vital that the policy guidelines are always considered and followed where appropriate.

2.3 Licence application and enforcement decisions must always be consistent, balanced, and fair and relate to common standards, which ensure that the public is adequately protected. In reaching any decision many criteria must be considered including the:

- seriousness of offences;
- history of the licence holder;
- consequence of non-compliance;
- effectiveness of options; and
- danger to the public.

3 Enforcement Action

- Take no action;
- Take informal action;
- Issue statutory notices;
- Issue penalty points in line with the process;
- Review a licence;
- Suspend a licence;
- Revoke a licence;
- Simple caution; and
- Prosecution

4 Informal Action

4.1 Informal action such as offering advice (which can be written) or issuing oral and written warnings is generally used by authorised officers to secure good conduct by licence holders following: -

- complaints made by the general public;
- convictions for minor traffic offences; and
- contraventions of the dress code.

4.2 Such informal enforcement action taken by authorised officers shall be appropriate in any of the following circumstances:-

- If the behaviour or offence does not warrant more formal action;
- Consideration of the history of the licence holder results in a reasonable expectation that informal action will achieve compliance;
- Confidence in the licensed Operator is high; and
- Consequences of non-compliance will not pose a significant risk to public safety.

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

5 Statutory Notices

5.1 Serious offences in respect of the condition and safety of licensed vehicles shall be dealt with by the issue of suspension notice and/or revocation notices.

6 Penalty Points

6.1 The Authority has a Penalty Points Scheme, which is detailed in **Appendix O**. Licence holders that have been found to be in breach of licence conditions or byelaws are likely to be issued with penalty points for individual transgressions. If a licence holder accumulates a total of 20 points during a rolling 12-month period then they will have their licence reviewed by the Licensing and Safety Sub Committee.

6.2 Licence holders that have had penalty points imposed on their licence can appeal to the Licensing and Safety Sub Committee.

7 Licence Review

7.1 In addition to decisions made by Licensing Officers under delegated authority, Licence holders may be required to appear before the Licensing and Safety Sub Committee in order that it can consider appropriate disciplinary measures on a case-by-case basis.

7.2 The Licensing and Safety Sub Committee can decide to take one or more of the following actions: -

- no action;
- issue an oral or written warning;
- require the licence holder to undertake the communications tests;
- require the licence holder to undertake a driver improvement course;
- require the licence holder to attend a particular training course and/or undertake a relevant test
- suspend a licence;
- revoke a licence; or
- recommend the cautioning or prosecution of licence holders.

8 Simple Cautions

- 8.1 A simple caution may be used as an alternative to a prosecution in order to:-
- deal quickly and simply with less serious offences;
 - divert less serious offenders away from the Courts; and
 - reduce the likelihood of re-offending.
- 8.2 To safeguard the suspected offender's interests, the following conditions shall be fulfilled before a simple caution is administered:-
- there must be evidence of the suspected offender's guilt sufficient to give a realistic prospect of conviction;
 - the suspected offender must admit the offence; and
 - the suspected offender must understand the significance of a simple caution and give informed consent to being cautioned.
- 8.3 If there is insufficient evidence to consider taking a prosecution, then by implication, the criteria is not satisfied for the use of a simple caution. A simple caution shall also not be used where the suspected offender does not make a clear and reliable admission of the offence. (It shall be noted that there is no legal obligation for any person to accept the offer of a simple caution and no pressure shall be applied to the person to accept a simple caution).
- 8.4 Where a person declines the offer of a simple caution, it shall be necessary to consider taking alternative enforcement action.

9 Prosecution

- 9.1 In circumstances where justified within this policy, the Licensing Team Leader or Environmental Enforcement and Protection Manager may institute proceedings to prosecute offenders in consultation with the Solicitor to the Council. Where sufficient evidence is available, licence holders will be prosecuted for serious breaches of legislation such as:-
- illegally plying for hire;
 - driving a motor vehicle without valid insurance;
 - refusing to carry a guide, hearing or other assistance dog (if not exempted);
 - unauthorised alteration of a taximeter;
 - exceeding the number of passengers permitted; and
 - refusal to carry a passenger without reasonable cause.
- 9.2 Any person or vehicle proprietor or operator found to be driving or operating an unlicensed vehicle shall be prosecuted, where evidence is available, as shall any unlicensed drivers or operators found using licensed vehicles. (Section 46 of the 1976 Act).
- 9.3 The decision to prosecute is a very significant one. Prosecution will, in general, be

restricted to those circumstances where the law is blatantly disregarded, legitimate instructions of the Authority are not followed and /or the public is put at serious risk. Such circumstances are, however, in a minority. The criteria on which a decision to prosecute is made provides common standards, which ensures a consistent approach.

9.4 The circumstances which are likely to warrant prosecution may be characterised by one or more of the following:-

- where there is a blatant disregard for the law, particularly where the economic advantages of breaking the law are substantial and the law abiding are placed at a disadvantage to those who disregard it;
- when there appears to have been reckless disregard for the safety of passengers or other road users;
- where there have been repeated breaches of legal requirements;
- where a particular type of offence is prevalent; and
- where a particular contravention has caused serious public alarm.

9.5 When circumstances have been identified which may warrant a prosecution, all relevant evidence and information must be considered, to enable a consistent, fair and objective decision to be made.

9.6 In addition to being satisfied that there is sufficient evidence to provide a realistic prospect of conviction, there must be a positive decision, based on the relevant criteria that it is in the public's interest to prosecute.

9.7 When a decision is being taken on whether to prosecute, the factors to be considered may include:-

- the seriousness of the alleged offence;
- the risk or harm to the public;
- identifiable victims;
- failure to comply with a statutory notice served for a significant breach of legislation;
- disregard of safety for financial reward;
- the previous history of the party concerned;
- offences following a history of similar offences;
- failure to respond positively to past warnings;
- the ability of any important witnesses and their willingness to cooperate;
- the willingness of the party to prevent a recurrence of the problem;
- the probable public benefit of a prosecution and the importance of the case e.g. whether it might establish a legal precedent.
- whether other action, such as issuing a formal caution would be more appropriate or effective.

10 Appeals

- 10.1 Appeals against certain decisions of the Authority may be made to the Magistrates' Court. These include refusal to grant or renew and suspension or revocation of, vehicle, drivers or operators licences.
- 10.2 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 and will confirm that the enforcement action is suspended pending the outcome of the appeal. If it appears to be in the interests of public safety, suspension can be immediate whether or not an Appeal is either lodged or contemplated.

11 Complaints

- 11.1 The general public are able to make complaints to the Authority about the conduct and/or service received from licensed drivers and operators and the Authority shall adhere to the following procedure:-
- ascertain facts regarding complaint and decide if actionable;
 - register the complaint and refer to investigating officer;
 - complainant contacted within 10 working days;
 - complaint investigated;
 - decision made; and
 - all parties informed of that decision
- 11.2 Licensed drivers and operators who are the subject of a written complaint shall be informed of the nature of the complaint, including date, time and location of the incident and if necessary given sufficient notice to attend an interview.
- 11.3 Interviews with licence holders shall not be carried out under the Police and Criminal Evidence Act 1984 (P.A.C.E) code of practice, unless the licence holder is suspected of a criminal offence.
- 11.4 Licence holders can attend a non-P.A.C.E. interview with a support person who shall not be permitted to speak at the interview but merely to support by physical presence.
- 11.5 In respect of P.A.C.E. interviews under caution, licence holders shall be permitted to have in attendance independent legal advice from either a certified Solicitor or an accredited or probationary representative. Alternatively, licence holders may have a support person at such interviews.
- 11.6 After consideration of the case file the investigating officer shall make one of the following decisions: -

- no action to be taken;
- issue written advice;
- issue a written warning;
- issue penalty points;
- refer to Licensing and Safety Sub Committee(licence review)
- refer for prosecution

- 11.7 If the complaint is unsubstantiated then it is likely that no further action will be taken against the licence holder. It may be necessary to issue written advice to a licence holder but this does not infer that the licence holder was found to have acted wrongly.
- 11.8 Substantiated complaints that breach byelaws or conditions of licence may result in the offender being issued with penalty points.
- 11.9 Substantiated complaints of a serious nature relating to public safety, dishonesty or violence shall result in the matter being referred to the Licensing and Safety Sub Committee for a licence review.
- 11.10 Complaints received containing allegations of serious criminal offences shall be referred directly to Kent Police.
- 11.11 Disputes between licensed drivers shall be resolved between themselves and not through this complaints procedure. If there is evidence relating to an alleged serious criminal offence, such as threats of violence, assault etc, then this shall be submitted to Kent Police. Alleged breaches of byelaws and licence conditions shall be submitted to the Authority.
- 11.12 If an investigation into a complaint provides evidence of conduct such as those outlined in paragraph 9.1 above then the matter shall be referred to the Environmental Enforcement and Protection Manager who will consider whether prosecution is appropriate.
- 11.13 A licensed driver or operator that has been the subject of a high number of complaints or incidents, whether substantiated or not, shall be required to have their licence reviewed by the Licensing and Safety Sub Committee. This decision shall be taken by the Licensing Team Leader or above. Each case will be determined on its individual merits.

12 Transparency

- 12.1 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 within 14 days or as soon as reasonably practicable.
- 12.2 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.

12.3 Any written documentation issued or sent will:-

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

12.4 The clear distinction between legal requirements and matters, which are recommended as good practice in all enforcement action, even if only giving verbal advice, is vitally important.

APPENDIX O – PENALTY POINTS SCHEME

1. The Scheme

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 twenty or more points within a period of two years from the date they are imposed, he will be required to attend a Committee hearing where the appropriate action to be taken in accordance with this Policy will be decided.
6. Where a licence holder is brought before the 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 twenty point threshold in any three year period will normally result in the 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 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 Licensing Manager 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 Committee for decision. The 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 accordingly.
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 – applicable to Hackney Carriage	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 retain licences of drivers	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	Penalty for permitting persons to ride without consent of hirer	8
60	Proprietor allowing an unauthorised person to drive a hackney carriage vehicle.	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

Local Government (Miscellaneous Provisions) Act 1976		
Section	Offence	Points
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	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	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 for journeys within Medway	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

Disability Discrimination Act 1995		
Section	Offence	Points
37	Refusal to carry a guide, hearing, or other assistance dog in a hackney carriage without a valid certificate of exemption	12
37	Charging an additional cost for the carrying of an assistance dog in a hackney carriage	12
37a	Refusal to carry a guide, hearing, or other assistance dog in a private hire vehicle without a valid certificate of exemption	12
37a	Charging an additional cost for the carrying of an assistance dog in a private hire vehicle	12

Hackney Carriage and Private Hire Licensing Policy	
Breach of Policy Requirements	Points
Failure to adhere to the Dress Code for Licensed Drivers	2
Failure to adhere to the Code of Good conduct for Licensed Drivers.	4
Failure to ensure the safety of passengers	4
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
Operating a vehicle that is not clean and tidy	2
Driving without consent of the proprietor	5
Smoking in a licensed vehicle at any time	4
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 operate the meter from the commencement of the journey and/or charging more than the fixed charge for hire of hackney carriages within Medway	12
Failure to notify change of address of a Private Hire Licence	2
Failure to produce a licence upon request	4
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 report an accident within seventy two hours	3
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
Operating a vehicle which is not maintained in a clean and/or safe condition internally or externally	3

Hackney Carriage and Private Hire Licensing Policy	
Breach of Policy Requirements	Points
Modifying a vehicle without the consent of the Council	3
Failure to display or maintain external licence plates 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
Taximeter does not conform to the Council's requirements	6
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
Permitting the vehicle to be used for any illegal or immoral purposes	12
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 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 of a private hire operator to ensure that all vehicles operated by him are adequately insured	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
Allowing a vehicle to be used for hire by a person who does not hold a current driver's licence	8
Any other contravention of the Policy not covered above	2-12

KEY TO QUESTIONS

1	Introduction – Do you agree that this section fully covered all you would expect to see – if not please detail in the comments section at 12 below
2	Vehicles - Do you agree that this section fully covered all you would expect to see – if not please detail in the comments section at 12 below
3	Drivers - Do you agree that this section fully covered all you would expect to see – if not please detail in the comments section at 12 below
4	Private Hire Operators - Do you agree that this section fully covered all you would expect to see – if not please detail in the comments section at 12 below
5	Disciplinary and Enforcement Measures - Do you agree that this section fully covered all you would expect to see – if not please detail in the comments section at 12 below
6	Private Hire Operators - Do you agree that this section fully covered all you would expect to see – if not please detail in the comments section at 12 below
7	Fares - Do you agree that this section fully covered all you would expect to see – if not please detail in the comments section at 12 below
8	Fees – Do you agree that this section fully covered all you would expect to see – if not please detail in the comments section at 12 below
9	Hackney Carriage Stands (Ranks) - Do you agree that this section fully covered all you would expect to see – if not please detail in the comments section at 12 below
10	Hackney Carriage Hailing Points - Do you agree that this section fully covered all you would expect to see – if not please detail in the comments section at 12 below
11	Appendices – Do you agree that this section fully covered all you would expect to see – if not please detail in the comments section at 12 below
12	Please insert here any comments you wish to make
	Contact Details
	Are you responding mainly as?
	Are you male or female?
	How old are you?
	Do you have a physical or mental impairment that has a substantial and long-term impact on your ability to carry out normal day-to-day activities?
	What is your ethnic group?

	Strongly Agree	Agree	Neither	Disagree	Strongly Disagree
1	6	7	1	2	0
2	5	6	1	4	0
3	5	7	2	2	0
4	3	5	5	2	0
5	3	9	2	1	1
6	3	7	3	2	0
7	4	7	3	1	0
8	4	5	5	0	0
9	1	9	5	0	0
10	3	7	4	1	0
11	2	8	4	0	1

%	22%	44%	20%	9%	1%
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No. of responses received

A resident	2
A licensed Hackney Carriage Driver	9
A licensed Private Hire Driver	5
Owner of a licensed vehicle	4
A licensed Operator	0
A councillor / MP	1
Organisation	2

EQUALITIES

Male	15
Female	1

Under 16 16-24 25-34 35-44

45-54 55-64 65+

Impairment Yes No

White - British	9
White – Irish	0
White – Any other – please specify	0
Multi Ethnic - White & Black Caribbean	0
Multi Ethnic - White & Black African	0
Multi Ethnic - White & Asian	0
Multi Ethnic – Any other – please specify	0
Black or Black British - Caribbean	0
Black or Black British - African	0
Black or Black British - Any other – please specify	0
Asian or Asian British - Indian	3
Asian or Asian British – Pakistani	1
Asian or Asian British - Bangladeshi	1
Asian or Asian British - Any other – please specify	1
Chinese or Ethnic – Chinese	0
Any other ethnic group – please specify	1

Comments received	Officer recommendations
<p>2.6.2 - Out of town taxis are now taking a lot of our work. They are working the towns as PH but are showing top signs; some are getting top sign the same as us, and are picking up off the street (flag downs). If they are working as PH they should not be showing top signs. The operators Licence should not allow the use out off town taxis; he or she should be only licensed for the use of Medway Licensed Taxis or PH cars.</p>	<p>The draft policy relates to the licensing within Medway only. Any out of town taxi picking up off the street (being hailed) is committing an offence and needs to be reported to the licensing unit. The operators licence is in respect of "licensed private hire". An out of town hackney carriage undertaking bookings for an operator within Medway is permissible under case law. These vehicles remain a hackney carriage in the same way as a Medway hackney carriage working for an operator.</p>
<p>Tinted Windows - Why are Mini buses on school runs allowed very dark tinted windows on them?</p>	<p>Mini buses over 8 passenger seats operating under a contract with the Council for school runs are not licensed as a private hire or hackney carriage and as such are not covered by this policy. Those that are licensed as hackney carriage or private hire comply with the Council's vehicle specifications.</p>
<p>Specify what is meant by "professional" clothing. E.g. list of clothing appropriate to be worn by all taxi drivers</p>	<p>Appendix L lists the acceptable standards of dress code we class as "professional"</p>
<p>No mention of the guidelines applying to other vehicles such as Tonbridge for example, some Tonbridge drivers have lights on top of their vehicles (yellow taxi light) used by private hire vehicles (For Hire) light.</p>	<p>Medway Council has responsibility ONLY for vehicles and drivers that are licensed by Medway Council and therefore the draft policy refers to licensing within Medway only. Hackney Carriages from another borough working for an operator in Medway is permissible under case law and remain a hackney carriage (case law states "once a vehicle is licensed as a hackney carriage it remains a hackney carriage for the duration of the licence). These vehicles are not private hire. However, any out of town taxi picking up off the street (plying for hire/being hailed) is committing an offence and needs to be reported to the licensing unit, where we have powers to prosecute if proven.</p>
<p>Driving white colour cars on private hire from Tonbridge hackney licensed.</p>	<p>Vehicles from another borough, working for operators within Medway are not governed by Medway rules, policies and regulations. These vehicles are regulated by the local authority that issued the licence. However, again they are not permitted to ply for hire/be hailed in the borough of Medway.</p>
<p>I do not agree that West Malling / Maidstone taxi drivers are being allowed to work in Medway. Same rules should apply to those drivers as well as Medway drivers (I.e. sit the knowledge test in Medway, buy red or white car. As silver are cheap and easy to buy. Medway drivers have to study hard, unfair as West Malling / Maidstone pass and are allowed to work in Medway.</p>	<p>A High Court Judge, in the case of Stockton Upon Tees v Fidler and Others, has ruled that it is not an offence under section 46(1)(e) of the Local Government Miscellaneous Provisions Act 1976 to operate a hackney carriage on journeys booked and wholly contained in the area of a local authority, even though another local authority only licenses the vehicle. Medway Council has no enforcement powers to deal with complaints or compliance with these vehicles or drivers. The High Court Judge also confirmed that it is an offence under section 45 of the Town Police Clauses Act 1847 for a hackney carriage to stand or ply for hire in the area of a local authority where it had not been licensed to do so (even if it is licensed to do so in another local authority area). The court highlighted that local authorities still had control of those plying for trade in their areas and that all hackney carriages still had to be licensed. This ruling is a matter for consideration and review by Parliament.</p>
<p>There should be 'hailing points' used at late evenings, where the 'night life' is usually busy. When Rochester has visitors in the evening, there is no designated area or sign for these visitors to go for a taxi.</p>	<p>This point will be passed to the Highways section to consider.</p>
<p>1) Council has outdated attitude to taxi drivers;</p>	<p>We work within the law to high standards and in line with currant legislation</p>
<p>2) Too many rules, colour of vehicle should not be an issue, disabled people do not use taxi ranks;</p>	<p>We work within the law to high standards to safeguard both the paying public and those we licence. In relation to the colour of vehicles being standardised, the taxi trade were consulted on this issue in 2004.</p>
<p>3) Drivers should have to speak good English;</p>	<p>We cannot legally refuse an application for poor language skills. There is an expectation that all licensed drivers are able to communicate effectively in English. Where English is not their first language, applicants are seen by Licensing as part of the application process to assess their language skills and where identified, recommendations made to attend and English Language class.</p>

<p>4) Drivers to have more say over fares;</p>	<p>Whilst the Council sets the fares, these are only done at the request and recommendations of the taxi trade when they wish for a variation to the current tariffs. These variations are advertised in the local paper in accordance with legislation and any representations received are considered.</p>
<p>11) Again why are we forced to have white cars??</p>	<p>The standardisation of the colour of hackney carriage and private hire and vehicles were consulted on in 2004. The taxi trade were involved in this consultation process.</p>
<p>Out of Town drivers are frequently overcharging and taking routes to justify the excess charge without a local knowledge test they have the excuse they do not know authorised routes.</p>	<p>Medway Council has no enforcement powers in relation to the drivers and vehicles from another borough, with the exception of illegally plying for hire. Any complaints about these vehicles/drivers must be reported to the local authority where they obtained their licence.</p>
<p>2 Vehicles - The requirement for a vehicle to be no more older than seven years is very harsh as the vehicle needs to earn enough revenue to fund a replacement and provide income to the licence holder.</p>	<p>This requirement is enforced only where vehicles are not in exceptional condition. Medway Council cannot refuse to grant a licence on age of the vehicle alone.</p>
<p>5 Discipline and Enforcement - Whilst I agree standards need to be maintained, I am concerned at the way drivers could be "picked on"</p>	<p>This proposed change is being made to ensure a fair and consistent approach and not leave the licence conditions or officer decision open to interpretation.</p>
<p>2.6.2 Roof signs. Tonbridge & Malling show signs on roof constantly</p>	<p>Once licensed as a Hackney, the Vehicle is always a Hackney and as such, must have a top sign on. However, it should never be switched on "For Hire" while operating outside of its licensed borough.</p>
<p>3.3 Do Tonbridge & Malling drivers have to pass local knowledge test, barring in mind Medway drivers pay pass or fail.</p>	<p>No, they are not "licensed" by Medway, they will have to comply with the application and licence process of the authority they applied to and which granted their licence.</p>
<p>4.1.2. Does this mean Tonbridge & Malling drivers I.e. a person who holds a drivers licence issued by Medway Council drives every private hire vehicle</p>	<p>A Private Hire Operator Licence is issued to an individual/company/partnership where the intention is to make provision for booking. The licensed operator must ensure that all private hire drivers and private hire vehicles are licensed by Medway Council. Medway Licensed private hire vehicles must only be driven by Medway licensed private hire drivers, even when they are being used for social and domestic purposes.</p>
<p>Why do Medway Private Hire Drivers have to go to extreme lengths on occasion to replace car for red</p>	<p>The standardisation of the colour of hackney carriage and private hire and vehicles were consulted on in 2004. The taxi trade were involved in this consultation process.</p>
<p>Regards door signs Tonbridge & Malling don't show any sign other than their own let alone with a Medway logo</p>	<p>A Tonbridge and Malling licensed vehicle must at all times comply with the conditions of their Tonbridge and Malling licence.</p>
<p>The same for red and white chequered stripes.</p>	<p>A Tonbridge and Malling licensed vehicle must at all times comply with the conditions of their Tonbridge and Malling licence.</p>
<p>Department for Transport updated best practice guidance In regard to section 1.3.1, it should be noted that the DFT has released an updated best practice guidance in March 2010, which includes new policies, which may not have been fully reflected in the Council's Taxi Policy. For example, the DFT 2010 guidance states that "the Department's view is that it is not a legitimate course of action for licensing authorities to adopt policies that exclude limousines", which could be contrary to the Council's position in 2.9.4.</p>	<p>The draft policy has been amended to reflect these comments</p>
<p>Cross border issues Local taxi drivers have raised concerns about cross-border issues, where drivers from outside Medway are operating in the area. The Law Commission report in May 2014 detailed initiatives adopted by other local authorities to address cross border issues, which Medway Council may wish to examine for consideration within this policy. For example, Derby City Council requires operators to inform customers when the vehicle dispatched to them is not licensed by Derby City Council. Pendle Council has a policy of requiring hackney carriage licence applicants to demonstrate their intention to ply for hire in the local authority area.</p>	<p>A High Court Judge, in the case of Stockton Upon Tees v Fidler and Others, has ruled that it is not an offence under section 46(1)(e) of the Local Government Miscellaneous Provisions Act 1976 to operate a hackney carriage on journeys booked and wholly contained in the area of a local authority, even though another local authority only licenses the vehicle. Medway Council has no enforcement powers to deal with complaints or compliance with these vehicles or drivers. The High Court Judge also confirmed that it is an offence under section 45 of the Town Police Clauses Act 1847 for a hackney carriage to stand or ply for hire in the area of a local authority where it had not been licensed to do so (even if it is licensed to do so in another local authority area). The court highlighted that local authorities still had control of those plying for trade in their areas and that all hackney carriages still had to be licensed. This ruling is a matter for consideration and review by Parliament.</p>

<p>2 - Taxi operators should have FEW cars with disable facility. All taxis do not need disable facility.</p>	<p>The policy does not insist that all taxis are wheelchair accessible. However, local authorities need to ensure that the requirements of the Disability Discrimination Act are fully met.</p>
<p>2 (6.2) - This MUST be applied to non-medway private hire vehicles as well</p>	<p>This draft policy is in respect of medway licensed taxis. There is no provision in current legislation that enables Medway Council to apply this policy to any other than those they licence.</p>
<p>3 (2.1) - Licences should be issued for FIVE years to drivers who have held six years or more hackney licences</p>	<p>Legal requirement under Deregulation Act is for 3-years for drivers and 5-years for operators licence</p>
<p>3 (13.1) - Council MUST send out reminders</p>	<p>We currently do, however there is no legal requirement to do so.</p>
<p>5 (2.1) current disciplinary measures are ok "no point system"</p>	<p>This proposed change is being made to ensure a fair and consistent approach and not leave the licence conditions or officer decision open to interpretation.</p>
<p>ADDITIONAL NOTE - Drivers should reserve the right to refuse service to difficult customers. Difficult customers should leave the vehicle when told to do so by the driver - otherwise held accountable for holding driver hostage</p>	<p>In accordance with current legislation, drivers are permitted to refuse a fare if they have just cause. This would also apply to customers during the course of the journey. The onus would be on the driver to 'prove' that he/she had reason to do so.</p>
<p>Appendix A - Vehicle Specifications (Seating Arrangements) - The wording in Seating Arrangements on page 2 should read: It must be remembered that a licence is issued for a maximum number of passengers (regardless of age or size) and it is an offence to carry more than the number licensed for. Reference to the carriage of children and fare calculation was removed from the fare card following a request from the MLTDA and consultation with the public (tariff advertisement in the local paper).</p>	<p>The draft policy has been amended to reflect these comments</p>
<p>Tinted Windows - The wording to be amended as follows; In accordance with the Road Vehicles (Construction & Use) Regulations 1986 the windscreen must allow at least 75% of light to be transmitted through it. The front side windows must allow at least 70% of light to be transmitted through them. This is a legal requirement. https://www.gov.uk/tinted-vehicle-window-rules In addition, Medway Council will only grant licences for hackney carriage or private hire vehicles that have maximum tint of 60% (allowing at least 40% of light to be transmitted through) on all other glazed area, with the exception of sun-roofs, where no level is set.</p>	<p>The draft policy has been amended to reflect these comments</p>

TITLE <i>Name/description of the issue being assessed</i>	Hackney Carriage & Private Hire Policy
DATE <i>Date the DIA is completed</i>	11 January 2016
LEAD OFFICER <i>Name and title of person responsible for carrying out the DIA.</i>	Alison Poulson

1 Summary description of the proposed change

- *What is the change to policy/service/new project that is being proposed?*
- *How does it compare with the current situation?*

The introduction of this policy is to encompass all existing guidance and relevant information into one document in a more customer friendly way, reflect current legislation, case law and guidance on the matters the Council can have regard to when considering an application and to confirm our arrangements for ensuring that licence holders comply with their license conditions and responsibilities.

The purpose of this statement is to review and publish the principles that we propose to apply when exercising the taxi licensing functions. These include: -

- Application and decision making process for drivers, vehicles and operators
- Disciplinary and Enforcement measures
- Fares and Fees

Medway Council is the Licensing Authority for the Medway area for all Taxi related licensing along with the compliance and enforcement of licenses issued by Medway.

Points system for compliance/enforcement to be introduced is the main change to the processes. This will ensure a consistent approach by officers and protect staff who will be less vulnerable to complaints due to inconsistency and different approaches taken.

2 Summary of evidence used to support this assessment

- *Eg: Feedback from consultation, performance information, service user records etc.*
- *Eg: Comparison of service user profile with Medway Community Profile*

A consultation exercise on the draft policy was undertaken during the period of 12 October 2015 to 8 January 2016 with invitations to respond set to all ward councillors and Members of parliament for medway, clerks to parish councils, driver and operator licence holders, town centre managers and adverts placed on the council website, in the press, all hub offices and gun wharf reception

The draft policy is then put forward to the Licensing and Safety committee for recommendation to full council for approval.

3 What is the likely impact of the proposed change?

Is it likely to :

- Adversely impact on one or more of the protected characteristic groups?
- Advance equality of opportunity for one or more of the protected characteristic groups?
- Foster good relations between people who share a protected characteristic and those who don't?

(insert ✓ in one or more boxes)

Protected characteristic groups	Adverse impact	Advance equality	Foster good relations
Age			✓
Disability			✓
Gender reassignment			✓
Marriage/civil partnership			✓
Pregnancy/maternity			✓
Race		✓	✓
Religion/belief			✓
Sex			✓
Sexual orientation			✓
Other (eg low income groups)		✓	✓

4 Summary of the likely impacts

- Who will be affected?
- How will they be affected?

Following the review and consultation there is no change to the policy or the way it will be applied. The statement will be updated to make it clearer and easier to understand.

By standardising our approach we will ensure equality and consistency in all taxi licensing matters whereby processes are applied.

As such there will be no adverse impact.

5 What actions can be taken to mitigate likely adverse impacts, improve equality of opportunity or foster good relations?

- Are there alternative providers?
- What alternative ways can the Council provide the service?
- Can demand for services be managed differently?

No actions, alternatives proposed or adverse effects to be addressed.

6 Action plan

- Actions to mitigate adverse impact, improve equality of opportunity or foster good relations and/or obtain new evidence

Action	Lead	Deadline or review date
No actions required at this time		

7 Recommendation

The recommendation by the lead officer should be stated below. This may be:

- to proceed with the change, implementing action plan if appropriate
- consider alternatives
- gather further evidence

If the recommendation is to proceed with the change and there are no actions that can be taken to mitigate likely adverse impact, it is important to state why.

For the proposed policy to be approved, implemented and publication on Council website

8 Authorisation

The authorising officer is consenting that:

- the recommendation can be implemented
- sufficient evidence has been obtained and appropriate mitigation is planned
- the Action Plan will be incorporated into service plan and monitored

Assistant Director



Perry Holmes

Date

13 January 2016