



Hackney Carriage and Private Hire Licensing Policy

2011

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INTRODUCTION

Role of Hackney Carriages and Private Hire Vehicles

Hackney carriage 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), and/or for those with mobility difficulties.

Aims of Licensing

The aim of licensing the hackney carriage and private hire vehicle trade is, primarily, to protect the public as well as to ensure that the public have reasonable access to these services, because of the part they play in local transport provision. It is important that the authority’s hackney carriage and private hire licensing powers are used to ensure that licensed vehicles in the district are safe, comfortable, properly insured and available where and when required. The hackney carriage and private hire industry within the Council’s area is comprehensive and provides its population with a reasonable service. This policy builds on the industry’s existing strengths.

Licensing Profile

The Council currently licenses 114 Operators, 105 hackney carriages and approximately 186 private hire vehicles. There are approximately 330 drivers licensed by the Council that are able to drive both vehicles.

Review of Policies & Practices

The Council has responsibility for licensing hackney carriage and private hire vehicles, drivers and operators within the borough of Tunbridge Wells. It has traditionally exercised this responsibility through a number of different policies and procedures that have been developed over a significant number of years.

Many of these policies 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, revised guidance has been issued to local authorities from central government. This guidance sets out what is considered to be best practice in terms of hackney carriage and private hire licensing.

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.

Best Practice Guidance and Legislation

The Department of Transport (DoT) has national responsibility for hackney carriage and private hire legislation in England and Wales. As a result of the Office of Fair Trading producing its report on the UK hackney carriage and private hire trade, the DoT was asked to produce Best Practice Guidance for local licensing authorities.

The Best Practice Guidance was produced and first issued in October 2006. It is directed at local authorities in England and Wales who will “decide for themselves the extent to which they wish to make use of it or adapt it to suit their own purposes”.

The DoT in its revised 2010 Guidance has stated that many licensing authorities considered their licensing policies in the context of the Guidance. However, in order to keep their guidance up to date, they embarked on a revision. 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.

This document interprets the DoT’s considered views about what constitutes “Best or Good Practice” in terms of hackney carriage and private hire licensing, together with local factors specific to this Borough.

This document also takes account of the legislative basis of the Council’s taxi licensing powers, contained in the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976, as amended.

Costs and Benefits of Licensing Policies

There is recognition within the Guidance that unduly stringent licensing requirements are likely to unreasonably restrict the supply of hackney carriages and private hire vehicles by increasing the cost of their operation, or by restricting access to the trade. The Council is aware, therefore, that a too restrictive approach may be detrimental to the public interest and could have adverse safety implications.

Licensing authorities are encouraged to ensure that each of their various licensing requirements is properly justified by the risk it seeks to address. The financial or other cost of a particular requirement, in terms of its effect on the availability of transport to the public should at least be matched by the benefit it will provide to the public, for example through increased safety.

In light of this and in order for the Council to maintain a modern, forward thinking licensing function, a full review of the Policy has been undertaken. This new Hackney Carriage and Private Hire Vehicle Licensing Policy (“the Policy”) is intended to ensure that both the trade and the public have a document that fully explains the licensing procedure.

BACKGROUND

Objectives

In setting out its policy, the Council seeks to promote the following objectives, through the licensing process:

- The protection of public health and safety;
- To provide and maintain a professional and respected hackney carriage and private hire trade, by continued monitoring and improvement of their required standards of service;
- Assistance with public access to an efficient and effective public transport service, as part of the Councils integrated transport policy;
- The protection of the environment

The aim of the licensing process, in this context, is to regulate the hackney carriage and private hire trade in order to promote the above objectives. It is the Council's wish to facilitate professional and responsible businesses, which display sensitivity to the wishes and needs of the general public.

Policy Status

In exercising its discretion in carrying out regulatory functions, the Council will have regard to this policy document and the objectives set out therein.

When considering each of the sections/appendices detailed in this document the Council have tried to ensure that each requirement is properly justified by the risk it seeks to address, balancing the cost of the requirements against the benefit to the public. When considering each section/appendix, the following question has been asked:

“Are the costs of implementation commensurate with the benefits the policy is endeavouring to achieve?”

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

This policy (and associated work procedures) will provide those Council Officers who are required to administer the licensing function with appropriate guidelines within which to act

Notwithstanding the existence of this policy, each application or enforcement measure will be considered on its own merits.

This policy will take effect from 000000 and it shall be kept under review and revised as appropriate.

Hackney Carriage and Private Hire Licensing Policy 2011

1. DEFINITIONS

1.1. Throughout this document:

- 'The Council' means the Council of Tunbridge Wells
- 'The Licensing Authority' means Tunbridge Wells Borough Council
- Authorised Council Officer means any officer of the Council authorised under the Council's Scheme of Delegation as contained in the Constitution
- 'This policy' means Tunbridge Wells Borough Council's Hackney Carriage and Private Hire Licensing Policy
- 'Vehicle' or 'Licensed Vehicle' means both a Hackney Carriage and Private Hire vehicle
- 'Hackney Carriage' means a vehicle licensed under the Town Police Clauses Act 1847 (TPC Act 47) to ply for hire throughout the district controlled by the Council.
- 'Private Hire vehicle' means a vehicle licensed under the Local Government (Miscellaneous Provisions) Act 1976 (LG(MP)Act 76) to carry passengers for hire or reward by prior booking
- 'Private Hire Operator' means a person who makes provision for the acceptance of Private Hire bookings to undertake themselves or pass to others to undertake
- The word 'Taxi' has no meaning in law and is often used generically to describe both Hackney Carriages and Private Hire vehicles.
- 'the licence plate' or 'the 'plate' means the vehicle licence plate issued to all vehicles and required to be displayed externally at the rear of all licensed vehicles, except if the vehicle is exempt
- 'Pre book' sign/transfer means sign/transfer issued to all Private Hire vehicles to be displayed externally on nearside and offside back doors
- 'The DoT' means the Department of Transport, including previous names under which that Department has been known.
- 'the DoT' Guidance' means the Department for Transport Best Practice Guidance on Taxi and Private Hire vehicle Licensing issued in March 2010
- 'the District' means the geographical region contained within the boundaries of Tunbridge Wells
- 'he', 'his', or 'him' means all references to 'he', 'his', or 'him' expressly also imply the definition of 'she', 'hers', or 'her'
- 'the Head of Environment and Street Scene' means the current post-holder (or the Head of Service of the appropriate Service Area following any subsequent restructure), or any nominated Deputy authorised by the Council's Scheme of Delegation
- 'the Committee' means the Licensing Committee of the Council
- 'Disability Impact Assessment' means Assessments required to ensure compliance with the Equality Act 2010
- the term 'DVLA driving licence' means a full original GB driving licence

2. VEHICLES

2.1. Zoning

- 2.1.1. Tunbridge Wells has two zones in existence.
- 2.1.2. Town zones which consist of the areas of Southborough, Langton Green, Rushall, Showfields, Ramslye, Hawkenbury, Sherwood, Speldhurst, Pembury, Broadwater Down.
- 2.1.3. Rural zones which consist of the town Paddock Wood and the parishes of Brenchley, Capel, Lamberhurst, Pembury, Horsmonden, Goudhurst, Cranbrook, Frittenden, Hawkhurst, Sandhurst and Benenden.

2.2. Quantity Restrictions of Hackney Carriages

- 2.2.1. This Authority limits the number of hackney carriages that they licence.
- 2.2.2. No powers exist for licensing authorities to limit the number of private hire vehicles that they licence.
- 2.2.3. The grant of a hackney carriage licence may be refused, for the purpose of limiting the number of licensed hackney carriages, if the Licensing Authority is satisfied that there is no significant unmet demand for the services of hackney carriages (within the zone or district to which the licence would apply).
- 2.2.4. In the event of a challenge to a decision to refuse a licence, it would, therefore, have to be established that the Licensing Authority had reasonably been satisfied that there was no significant unmet demand.
- 2.2.5. If the Authority were to take the view that a quantity restriction can be justified in principle, the Guidance advises that the level at which the limit should be set is addressed by means of a survey. It is necessary for this to be carried out sufficiently frequently to be able to respond to any challenge to the satisfaction of a court. An interval of three years is commonly regarded as the maximum reasonable period between surveys.

2.3. Returned/Expiry of Hackney Carriage Vehicle Licence and Re-Allocation

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

2.4. Specifications and Conditions

- 2.4.1. Licensing authorities have a wide range of discretion over the types of vehicle that they can licence as hackney carriages or private hire vehicles.
- 2.4.2. The Best Practice Guidance suggests that local licensing authorities should adopt the principle of specifying as many different types of vehicle as possible. They are,

however, encouraged to make use of the “type approval” rules within any specifications they determine.

- 2.4.3. The Council is empowered to impose such conditions, as it considers reasonably necessary, in relation to the grant of a hackney carriage or private hire vehicle licence. Hackney carriages and private hire vehicles provide a necessary service to the public; however, it is appropriate to set standards for the external and internal of the vehicle, provided that the standards are reasonable and proportionate.
- 2.4.4. Appendix A sets out the minimum standards which this Authority has adopted for vehicle specification which will normally apply in respect of all licensed vehicle applications.
- 2.4.5. Appendix B sets out additional conditions which this Authority has adopted which may be attached to hackney carriage and private vehicle licences.
- 2.4.6. In general, vehicles will be licensed for the carriage of up to four passengers, but applications in relation to larger vehicles that can accommodate up to eight passengers will be accepted, provided that there is compliance with the specifications applicable to such vehicles. Purpose-built vehicles are amongst those which this Authority will licence only as hackney carriages in view of the possible confusion in the minds of the travelling public between the two types of vehicle.

2.5. Accessibility

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

“Making successful journeys is critical to the social inclusion of disabled people. Without the ability to travel, disabled people are denied access to life opportunities. Their access to education, shopping, employment, healthcare, as well as social and family life is significantly improved when journeys become accessible”.

- 2.5.2. For this reason, the Council considers it important that people with disabilities have access to all forms of public transportation and will keep this section of the policy under review through periodic Disability Impact Assessments.
- 2.5.3. Drivers who, for medical reasons are unable to accept wheelchair passengers, or guide/hearing dogs are able to apply to the Council for an exemption certificate. Such a certificate will only be issued on production of medical evidence. Exemption certificates, which show the photograph of the driver must be displayed in the vehicle at all time the driver is working.
- 2.5.4. It is arguable that different accessibility considerations should apply between hackney carriages and private hire vehicles in that hackney carriages can be hired in the street or at a rank, by the customer dealing directly with a driver. Private hire vehicles, however, can only be booked through an operator. It is considered particularly important that a person with a disability should be able to hire a hackney carriage with the minimum delay or inconvenience. The Council will, therefore,

actively encourage the licensing of sufficient accessible vehicles and have regard to the requirements of the Equality Act 2010.

- 2.5.5. The private hire trade should, however, be aware of a good practice guide produced by the Equality and Human Rights Commission, as private hire operators also have a duty under the Equality Act 2010 to ensure disabled people are not discriminated against or treated less favourably.

2.6. Environmental Considerations and Maximum Age of Vehicles

- 2.6.1. The Best Practice Guidance reminds licensing authorities that it is perfectly possible for an older vehicle to be in good condition and that the setting of an age limit beyond which they will not licence vehicles may be arbitrary and disproportionate. It is, nevertheless, accepted that a greater frequency of testing may be appropriate for older vehicles. Details of testing requirements are specified in Appendix A of this Policy.
- 2.6.2. Local licensing authorities are, however, also advised to consider how far their vehicle licensing policies can and should support any local environmental initiatives that they may have adopted, bearing in mind the need to ensure that benefits outweigh costs (in whatever form). They suggest perhaps, setting stricter vehicles emissions standards by promoting cleaner fuels.
- 2.6.3. The Council have given careful consideration to the recommendation in the Guidance that, in the interests of the environment, tougher emissions standards should be introduced for all licensed vehicles. However, Guidance suggests that local authorities would need to carefully and thoroughly assess the impact of introducing such a policy; for example, the effect on the supply of taxis and private hire vehicles in the area would be an important consideration in deciding the standards, if any, to be set. They should also bear in mind the need to ensure that the benefits of any policies outweigh the costs (in whatever form). Therefore, the Council currently have no plans to introduce any stricter emission test than that required for an MOT
- 2.6.4. In parallel with the Council's Air Quality Action Plan which was adopted in March 2011, the licensing authority considers its responsibilities in protecting the environment to be a predominate factor within the licensing policy. Emission testing is an integral part of vehicle testing and will remain under constant review in light of the Guidance. The maximum age of vehicles reflects the need to ensure vehicles meet the latest environment standards, precluding older less efficient vehicles from being licensed.
- 2.6.5. Clearly emissions from hackney carriages and private hire vehicles could be further reduced through education and raising awareness of environmental issues. Simple measures such as:
- better and more frequent vehicle maintenance and servicing; or
 - switching off engines when stationary or idling, particularly at hackney carriage ranks/stands

can make a significant environmental impact considering the number of licensed vehicles.

- 2.6.6. Appendix A makes it clear that LPG conversions to vehicles are acceptable to the Council.

2.7. Vehicle Testing

- 2.7.1. An MOT pass certificate, from an inspection carried out by the Council's garage(s), must be produced for all vehicles that are over three years old. Subsequent MOT pass certificates must be produced annually.
- 2.7.2. In addition to the MOT testing, the vehicle must also be mechanically tested and inspected by the Council's nominated garage. This process is referred to as "Certificate of Compliance". When required to produce an MOT pass certificate, a "Certificate of Compliance" pass certificate must also be produced.
- 2.7.3. The licence of any vehicle which fails its inspection requirements will be automatically suspended until such time as the vehicle has been re-examined and the necessary pass certificates obtained.
- 2.7.4. There is sometimes criticism that local authorities provide only one testing centre for their area (which may be geographically extensive). So it is good practice for local authorities to consider having more than one testing station. For this reason this Authority has three testing stations, see Appendix M
- 2.7.5. The Authority may undertake its own programme of inspections between formal MOT tests, where an Officer is unsure as to a vehicle's compliance. The vehicle will be referred to the Council's nominated testing station for a formal assessment. Where the testing requirements are not met, the Officer may either agree a period of time for ratification and re-inspect, or suspend the vehicle until rectification and re-inspection has occurred. The test will be at the Proprietors expense.

2.8. Signage and Advertising

- 2.8.1. Members of the public can often confuse private hire vehicles with hackney carriages, without realising that private hire vehicles are not available for immediate hire or able to be hailed in the street. It is therefore, important that the public are able to easily distinguish each type of vehicle.
- 2.8.2. It is possible to prohibit private hire vehicles from displaying any identification at all apart from the local authority licence plate. Some clearer identification is, however seen as best practice. This is for two reasons: firstly, to ensure a more positive statement that the vehicle cannot be hired immediately though the driver, and secondly because it is quite reasonable (and in the interests of the travelling public) for a private hire vehicle operator to be able to state on the vehicle the contact details for hiring.
- 2.8.3. The Guidance recommends, as best practice, a licence condition that requires a sign on the vehicle in a specified form. This will often be a sign of a specified size and shape which identifies the operator (with a telephone number for bookings) and the local Authority, and which specifies that the vehicle can be 'pre-booked' only. This approach identifies the vehicle as private hire and helps to avoid confusion with

a hackney carriage, but also gives useful information to the public wishing to make a booking.

- 2.8.4. Roof-mounted signs on private hire vehicles are not seen as best practice even if they indicate 'pre-booked only' as any roof mounted sign, however unambiguous its words, is liable to create confusion with a hackney carriage.
- 2.8.5. Within the Council's area, both hackney carriages and private hire vehicles are required to display a licence plate on the rear of the vehicle. The plates are different colours to distinguish one type from another. This is a key feature in helping to identify vehicles that are properly licensed; it is also easily identifiable to members of the public, particularly if they need to register a complaint with the Council.
- 2.8.6. In view of the above, hackney carriage vehicles licensed by this Council, except for those with built-in roof signs, must carry illuminated roof-mounted sign indicating they are a taxi and these must be lit when plying for trade. In order to differentiate between the two types of licensed vehicle, private hire vehicles must not carry roof-mounted signs of any kind, and they must have no signs (roof-mounted or otherwise) using the words "Taxi", "Hackney", "Cab", or "For hire". See Appendix A
- 2.8.7. Limited advertising giving details concerning the proprietor's or operator's private hire business will be permitted, but this will be strictly controlled so that confusion between private hire and hackney carriage vehicle is kept to the minimum.
- 2.8.8. Private hire vehicles are required to display licence plates affixed externally on the rear of the vehicle and private hire 'pre-booked only' stick on sign on the nearside back and offside back doors. These signs are available from the offices of 'Gateway' 8 Grosvenor Road, Royal Tunbridge Wells TN1 2AB or the Licensing Partnership based at Sevenoaks District Council, Argyle Road, Sevenoaks, Kent TN13 1HG
- 2.8.9. Exemptions may be given for certain types of private hire vehicle not to display the plate and/or 'stick on' sign, however, a letter of exemption from the Council must be carried in the vehicle at all times. In the absence of a letter of exemption in the vehicle, a plate and door signs must be displayed on the required areas of the vehicle.
- 2.8.10. When permission not to display a plate etc has been given to vehicles used for executive hire, corporate contracts, or work of a similar nature. Vehicles that are used for a combination of 'exempt' work and normal private hire work will be required to display licence plates at all times when the exemption does not apply. Magnetic doors signs are available for exempt vehicles.
- 2.8.11. External advertising is permitted on both hackney carriages and private hire vehicles, but with the exception of the paragraph below (4.8.12) of this Policy, shall be confined to the doors and front of the vehicle. All advertisements on the doors of private hire vehicles must contain a reference to the fact that the vehicle can only be 'pre-booked'.
- 2.8.12. The only advertisement permitted on the windscreen or rear window of a vehicle must be in the form of a strip no wider than 10cm, positioned at the top or bottom of the window so that it does not obstruct the driver's view in any way.

2.9. Security/CCTV

- 2.9.1. The hackney carriage and private hire trade provide a valuable public service, especially late at night when other forms of public transport are no longer available. Security for drivers and passengers is of paramount importance. CCTV cameras can be a valuable deterrent as well as protecting the driver from unjustified complaints.
- 2.9.2. It is not proposed that measures such as CCTV cameras should be required, as part of the licensing regime, as it is considered that they are best left to the judgement of the owners and drivers themselves. The hackney carriage and private hire vehicle trades are, however encouraged to consider the installation of CCTV cameras in their vehicles on a voluntary basis and it will then be incumbent upon the operator to handle relevant data gathered in an appropriate and secure manner. For information and guidance on data protection see Information Commissioners' Office (ICO) website <http://www.ico.gov.uk/>.
- 2.9.3. The hackney carriage and private hire trade are also encouraged to build good links with the local police force, including participation in any Crime and Disorder Reduction Partnerships.

2.10. Application Procedures

- 2.10.1. The application procedures for a hackney carriage or private hire vehicle licence are prescribed by the Council. Application must be made on the specified application form in accordance with the application procedure set out in Appendix C.

2.11. Consideration of Applications

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

2.12. Grant and Licence of Vehicle Licences

- 2.12.1. The Guidance makes no recommendations in respect of the duration of hackney carriage or private hire vehicles, and legislation limits the maximum period of such licences to 12 months.
- 2.12.2. Hackney carriage or private hire vehicle licences will thereby continue to be issued for a one-year period from the date of grant, subject to the power to grant a licence for a shorter period, should this be appropriate in the circumstances.
- 2.12.3. It is the proprietor or operators' responsibility to ensure that re-tests are carried out in sufficient time for a new Certificate of Compliance, and other necessary documentation, to be available for processing by Council staff.
- 2.12.4. Council officers will send a reminder letter to the current taxi proprietor or operator, one month before the existing licence expires in order to assist applicants in their prompt submission of renewal applications.

- 2.12.5. When submitting renewal applications, applicants should be aware that it may take up to five working days to process and issue a licence once all the necessary paperwork has been received. If the licence has not been issued at the point when an existing licence expires, the licence holder must cease operating until the new licence has been received. Every effort will be made to ensure continuity of trade; however, it would assist if applications are received at the earliest opportunity.
- 2.12.6. A vehicle licence is issued to a specified vehicle, therefore, at the end of the vehicle's licensed period that particular licence ceases to exist and any new vehicle would be subject to the requirements of a new vehicle application.
- 2.12.7. To assist owners who wish to be able to change vehicles during the period of an existing licence, the Council will operate a 'replacement vehicle policy' - see Appendix R. This will allow the existing licence to be surrendered and a new one year licence granted for the replacement vehicle, without the need to meet the wheelchair accessible requirement and allowing the replacement vehicle to retain the same licence number.
- 2.12.8. Once a date of expiry of an existing licence has passed and a valid renewal application form and fee haven't been received, the licence automatically expires. All expired licences will be required to apply as a new licence application and meet all requirements of a new vehicle.

2.13. Stretched Limousines

- 2.13.1. Stretched limousines are elongated saloon cars that have been increasingly used for mainstream private hire work. The number of stretched limousines being imported, particularly from the United States, has been increasing. Their use generally includes all private hire work plus special occasions such as days at the races, stag/hen parties and children's birthday parties.
- 2.13.2. Licensing authorities have generally considered there to be some problems preventing stretched limousines from being licensed including:
- many of the vehicles are capable of carrying more than eight passengers;
 - many of them are left hand drive;
 - many are fitted with all round darkened glass;
 - most originate from the United States;
 - many have been converted or modified after manufacture;
 - due to their origin many parts may not be available making adequate maintenance difficult.
- 2.13.3. Most limousines are imported for commercial purposes and are, therefore, required to take a Single Vehicle Type Approval (SVA) test. They cannot be approved as Passenger Carrying Vehicles (PCV) because they cannot meet the required standards for the door arrangements and means of escape in an emergency. The SVA Scheme is an Inspection Scheme for vehicles that are not approved to British and European Standards and its purpose is to ensure that these vehicles meet modern safety standards and environmental standards before being used on public roads. When presented for SVA the vehicle is produced with a declaration that it will never carry more than eight passengers. The importer must inform any person who

may use it of its restriction. Any subsequent purchasers must also be informed of the restriction.

- 2.13.4. The Local Government (Miscellaneous Provisions) Act 1976 defines a private hire vehicle as a motor vehicle constructed or adapted to carry fewer than eight passengers, other than the hackney carriage or public service vehicle, which is provided for hire with the services of a driver for the purposes of carrying customers. Section 48 of the 1976 Act requires that before a licence is granted the Authority must be satisfied that the vehicle is:
- suitable in type, size and design for the use as a private hire vehicle;
 - not of such design and appearance as to lead any person to believe that the vehicle is a hackney carriage;
 - in a suitable mechanical conditions;
 - safe;
 - and comfortable.
- 2.13.5. Stretched limousines can be licensed for private hire work providing they may carry no more than eight passengers and meet the requirements of the Act. Possible exemptions under the Local Government (Miscellaneous Provisions) 1976 Act provide that nothing should:
- apply to a vehicle used for bringing passengers or goods within a controlled district in pursuance of a contract for the hire of the vehicle made outside the district if the vehicle is not made available for hire within the district;
 - apply to a vehicle while it is being used in connection with a funeral or a vehicle used wholly or mainly, by a person carrying on the business of a funeral director, for the purpose of funerals;
 - apply to a vehicle being used in connection with a wedding.
- 2.13.6. Any stretched limousines, which are offered for private hire or which are not used for funeral and weddings do, or course, require a licence. Some operators of these vehicles have a wedding car licence insurance policy on the basis that the vehicle will be used largely during daylight hours, once or twice per week. Before licensing for private hire, therefore, a full policy for private hire purposes will be required.
- 2.13.7. In accordance with the Best Practice Guidance, all applications to licence stretched limousines as private hire vehicles will be treated on their own merits. It is, however, proposed that imported stretched limousines type vehicles:
- be granted an exemption for the requirement under the conditions of licence for private hire purposes to be right hand driver; and
 - be approved for licensing as private hire vehicles subject to the additional conditions detailed in Appendix B
- 2.13.8. There are obviously concerns regarding the use of darkened glass in stretch limousines. It is, accordingly, considered that the glass in any windows surrounding the drivers must be clear and the rearmost window must allow a minimum of 70% light transmission. See section A25.2 of Appendix A of this Policy.
- 2.13.9. It would be an offence under the Licensing Act 2003 to provide facilities for the sale of alcohol within a limousine. If the limousine is to be provided whereby part of the

booking includes “free alcohol”, the premises which accepts the booking and supplies the alcohol within the vehicle would need an appropriate licence under the Licensing Act 2003, otherwise a criminal offence would be committed.

- 2.13.10. The Council strongly recommends that anyone wishing to licence a limousine contacts the licensing department before purchasing a vehicle to ensure that advice can be provided as to whether the vehicle will meet the required standards, as each vehicle will be considered on its merits.

2.14. Contract Vehicles

- 2.14.1. Previously, under Section 76 of the Local Government (Miscellaneous Provisions) Act 1976, there was no requirement for a vehicle to be licensed where it was used for a contract with an organisation/firm for a period more than seven days for carrying passengers for hire or reward under a contract for the hire of the vehicle. This exemption only applied to the vehicle and drivers subject to the contract and then only during the period of the contract. Any vehicle being used for a contract with one firm could not be used for any other contract or purpose during the period of that contract.
- 2.14.2. Effective from January 2008, the Road Safety Act 2006 repealed Section 76 of the LG (MP) Act 76 removing this exemption to be licensed as a private hire if working under a contract. The implication is that additional vehicles will require licensing. While the Courts will provide the definitive interpretation of the law, Tunbridge Wells Borough Council is following guidance by the DoT in relation to definitions of private hire vehicles that will require licensing. The DoT will be revising its current guidance note to offer a more definite view about which vehicles should be licensed as private hire vehicles. The current guidance note can be viewed on the DoT website at <http://www.dft.gov.uk/pgr/regional/taxis/rsa06privatehirevehicles>.
- 2.14.3. Organisations that may be affected by the changes described above should also consider seeking their own independent legal advice.

2.15. Funeral Vehicles

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

2.16. Wedding Vehicles

- 2.16.1. A vehicle does not need to be licensed whilst it is being used in connection with a wedding. For clarity, the exemption applies only to services directly relating to the wedding service itself, for example transporting the bride and/or groom to the wedding service, from the service to the reception and from the service/reception to home. Transporting the married couple to other locations such as the airport would be considered to be a licensable activity.
- 2.16.2. Written certification from the Council of the relevant exemption claimed is not currently required and it is not proposed to change this arrangement.

2.17. Exemption from displaying licence and private hire ‘pre-booked only’ stickers

- 2.17.1. The Local Government (Miscellaneous Provisions) Act 1976 requires that Private Hire vehicles and drivers display the relevant licence plate and badge issued by the authority at all times. The same legislation also permits a Licensing Authority to exempt the display of private hire licence plate and, where that exemption applies, the requirement to wear a private hire driver’s badge does not apply.
- 2.17.2. The open display of these identifying plates and badges is important in terms of protecting both the public and the taxi trade. However, there are limited occasions when the display of such identification may have the opposite effect both in terms of customer safety and commercial implications for the operating business. The operation of chauffeured, executive and limousine vehicles is a case in point. Identification of the vehicle as a licensed vehicle may allow “high risk” passengers to be more readily targeted putting both them and the driver at risk. The display of local authority licence plates externally may also deter some customers from using the service.
- 2.17.3. It is not intended that all private hire vehicles should have access to this exemption. Only a small minority operating the type of service described above. To that end it is only considered appropriate to consider issue of exemption notices where the requirements in Appendix M are met.
- 2.17.4. Written applications for an exemption must be made to the Authority by the person holding a private hire operator’s licence issued by the authority. The application must be accompanied by documentation to evidence compliance with a) – c) excluding d). If all points are satisfied then an exemption notice may be issued.
- 2.17.5. The Licensing Officer will consider whether to issue an exemption. If the application is refused, the person holding the private hire operators licence may appeal to the Licensing Committee.

2.18. Courtesy Cars

- 2.18.1. The Council takes the view that vehicles, which are used as “courtesy cars”, i.e. for transporting customers to and from garages, airports, hotels and night-clubs, without charge but with an obvious business benefit, are likely to need to be licensed under the private hire licensing scheme as should their ‘operator’. Whilst there may not be a separate charge for using the vehicles, they are being supplied with a driver for a specific purpose which is likely to result in a ‘business benefit’, for example a customer using that particular business as opposed to one that doesn’t offer the same transport service
- 2.18.2. The Council will proactively seek to enforce against unlicensed businesses where it can be proven that the business obtains a benefit and the Council considers that private hire vehicle licensing is necessary. In all such circumstances, the business will first be advised by the Council that they consider licensing as necessary

2.19. Special Event Policy

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

2.20. Ambulances and Other Patient Transport

2.20.1. Ambulances

All ambulances meeting the following requirements will be exempt from private hire vehicle licensing:

“vehicles constructed to original manufacturer’s specification and equipped and used for the carriage of sick, injured or disabled people with a permanent rear compartment and means of conveying passengers in a recumbent position together with an attendant seat for use by accompanying medical professionals, readily identifiable as a vehicle used for the carriage of such people by being marked “Ambulance” on both sides.”

2.20.2. Other Patient Transport

Other patient transport services provided by either:

- i) Primary Care Trusts, or
- ii) voluntary services,

that do not qualify for the exemption will require licensing as a private hire vehicle. In the event that the Council consider that a business within this section needs licensing, the Special Event Vehicle policy detailed at Appendix L will apply.

2.21. Voluntary Sector Transport

- 2.21.1. Tunbridge Wells Borough Council will assess each individual organisation on its own merits to determine whether or not it will require licensing as a private hire business. Whilst it is clear that the organisation is providing a service, it is less clear that such provision can be defined as operating a private hire business.
- 2.21.2. Tunbridge Wells Borough Council will, however, seek to enforce against unlicensed businesses where it can be proven that the business obtains a benefit and the Council considers that private hire vehicle licensing is necessary. In all such circumstances, the business will first be advised by the Council that they consider licensing as necessary.
- 2.21.3. In the event that the Council consider that an organisation within this section needs licensing, the Special Event Vehicle policy detailed at Appendix L will apply.

2.22. Livery

2.22.1. Hackney carriage vehicles must be white, unless the vehicle is a 'London Style'.

5.20.1 Private hire vehicles can be any colour, apart from white.

2.23. Seating in Multi-Passenger Vehicles

2.23.1. The Council will licence vehicles for seating arrangements of up to eight passengers where all licensing requirements are satisfied.

2.23.2. All vehicles licensed to carry in excess of four passengers will only be licensed in accordance with the seating layouts detailed in Appendix K.

2.24. Dual Plating

2.24.1. The Council will not grant a hackney carriage or private hire vehicle licence for any vehicle already licensed by another licensing authority.

2.24.2. No hackney carriage can be licensed to ply for hire in more than one zone.

2.25. National Flags

2.25.1. On the occasion of major sporting or non-sporting events (for example, a world cup, coronation, royal wedding, etc.) a maximum of one national flag may be flown on a licensed vehicle. The flag must be of a size and manufacture that will not obstruct the driver's view in any way, nor endanger the safety of other road users or pedestrians. All flags are flown at the proprietor's own risk.

3. DRIVERS – (Hackney Carriage and Private Hire)

3.1. Joint Licences

3.1.1. This Council issues joint hackney carriage and private hire licences; this provides an increased choice for those drivers, who wish to obtain one single licence that will allow them to drive either hackney carriage or private hire vehicles.

3.2. Age and Experience

3.2.1. A licence will not be granted to anyone who is not over 21 years of age has not held a full driving licence issued in accordance with Part III of the Road Traffic Act 1972 (as amended), for a period of at least twelve months immediately prior to the application.

3.2.2. An applicant who meets the licensing requirements by virtue of an acceptable non-UK driving licence must either:

- Obtain a full UK driving licence within twelve months of the issue of the hackney carriage/private hire drivers licence, or

- Obtain a 'backing sheet' from the DVLA within twelve months of the issue of the hackney carriage/private hire drivers licence, which can be attached to the non-UK driving licence and used by the DVLA to monitor penalty points obtained whilst driving in the UK

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

3.3. Driver Topographical Knowledge Test and other tests

3.3.1. In order to maintain the high standards that the Council expects of drivers, a licence to drive a hackney carriage or private hire vehicle will not be granted unless the Council is satisfied that the applicant is a 'fit & proper' person, which includes a knowledge of the area in which they operate, safety matters, knowledge of the highway code, and basic taxi licensing law.

3.3.2. In addition, applicants are required to take a short verbal test of their knowledge in relation to customer care, basic numeracy and the Councils hackney carriage and private hire licensing policy.

3.3.3. Whilst it is argued that such topographical knowledge is, perhaps, not quite as important for private hire drivers as private hire vehicles are not legally available for immediate hiring in the same way as hackney carriage. This Council issues joint licences and as such on issue of a licence the driver can drive either a hackney carriage or private hire thereby already has a good working knowledge of the area in which they are licensed.

3.3.4. There appears to be no substantial difficulty concerning the use of or understanding spoken English amongst taxi drivers in the area. However, if a driver is not able to satisfactorily complete the topographical and other tests due to difficulties with the spoken and written English test, they will not attain a licence.

3.3.5. The procedures in relation to the above are set out in Appendix C.

3.4. Driving Proficiency and Qualifications

3.4.1. The Driving Standards Agency (DSA) first introduced a practical driving test specifically designed for hackney carriage and private hire drivers in 1999. Many authorities require the aforementioned DSA test or some further driving test to be taken before a driver's licence is issued.

3.4.2. The Council believes that as a profession, hackney carriage and private hire drivers have a special responsibility for the safe transportation of fare paying passengers. An assessment of a driver's ability should, therefore, be obtained by all new applicants.

3.4.3. All new applicants for hackney carriage/private hire drivers licences are required to produce evidence that they have successfully completed the DSA practical driving test.

3.5. Medical Examination

- 3.5.1. The DoT recognises that it is clearly good practice for medical checks to be made on each driver as a condition for the initial grant of a licence and subsequent renewal. The Council has adopted the relevant DVLA medical standard i.e. 'Group 2'. This is the standard applied to the licensing of lorry and bus drivers and is considered to be best practice.
- 3.5.2. A medical examination by GP, to assess an applicant's fitness to drive a licensed vehicle, is required before a licence may be granted. A DVLA Group 2 Standard of medical fitness for professional drivers will be required.
- 3.5.3. A request form for a medical examination, which may be presented to the applicant's GP, is obtainable from the Council. The applicant will be responsible for paying the fee for the examination to the relevant surgery. On completion of the examination, the report must be submitted to the Council.
- 3.5.4. Existing licence holders, having presented a medical certificate upon first being granted a licence, will be required to be re-examined before the renewal of the drivers licence, every three years. Drivers of 65 and over must be examined annually. More frequent checks will also be necessary if, in the opinion of the medical practitioner, if it is necessary.
- 3.5.5. Holders of current Passenger Service Vehicle (PSV) and/or Heavy goods Vehicle Licences (HGV), where the holder is able to produce proof of a current medical examination, will not be required to undergo a further medical examination as required by Appendix C of this policy.
- 3.5.6. Licence holders must advise the Council of any deterioration in their health that may affect their driving capabilities. For the avoidance of doubt, the following medical conditions must be notified to the Council as soon as reasonable practicable; however, this list is not exhaustive:
- Any heart-related condition;
 - Abnormal bold pressure;
 - Diabetes (Type 1 or Type 2);
 - Epilepsy;
 - Sudden attacks off giddiness or fainting;
 - Conditions causing excessive daytime sleepiness such as sleep apnoea;
 - Alcohol or drug dependency;
 - Mental or psychological disorders; or
 - Any other condition that may affect the ability to drive.
- 3.5.7. Where there is any doubt as to the medical fitness of the applicant, the Council may require the applicant to undergo further medical examination by a Doctor appointed by the Council, this will be at the applicant's own expense.
- 3.5.8. Where there remains any doubt about the fitness of any applicant, the Council will review the medical evidence and make any final decision in light of the medical evidence available.

- 3.5.9. The format of the medical examination will be that prescribed by the standard Group 2 DVLA issued. This form is available from www.tunbridgewells.gov.uk

3.6. Criminal Record Bureau (CRB) Disclosures

- 3.6.1. A criminal record check on a driver is seen as an essential safety measure in assessing whether or not an applicant is suitable to hold a licence. An Enhanced Disclosure provided by the Criminal Records Bureau is required by all applicants, whether new or renewal applications. These disclosures include details of spent convictions and police cautions.
- 3.6.2. The Rehabilitation of Offenders Act 1974 does not apply to applicants for Hackney Carriage/Private Hire driving licences. They are required to disclose all convictions, including those that would normally be regarded as spent.
- 3.6.3. Before an application for a driver's licence will be considered, the applicant must provide a current (less than three months old) Enhanced CRB Disclosure Certificate (issued specifically for Tunbridge Wells Borough Council) or a certificate of good conduct from the relevant Embassy in the case of an overseas applicant.
- 3.6.4. The Council is an accredited Criminal Records Bureau body; therefore, applicants can deal with the CRB through the Council. The applicant will be responsible for the payment of the appropriate fee.
- 3.6.5. If a driver can satisfy the authority that they have been conviction, caution, fixed penalty notice or warning free for a minimum period of five years, CRB checks will be required once in every three-year period, usually upon renewal. A conviction, caution or warning imposed after the licence has been issued may result in a requirement to obtain annual CRB checks.
- 3.6.6. Licensed drivers are to notify the Council without delay of any criminal convictions.
- 3.6.7. The Council may consider any warning letter or other disciplinary sanction to be of equal concern to a conviction or warning on a CRB.
- 3.6.8. Additional CRB checks on drivers may be required. In the case of the requirement for an additional CRB check, the Council must have good reason prior to making this request, for example, reasonable belief that the licence holder has a criminal conviction not notified to the Council.
- 3.6.9. The Council is bound by rules of confidentiality, and will not divulge information obtained to any third parties. The applicant for a CRB certificate will be sent a separate certificate to their home address, while the Council will also receive a copy of the report. Once the Council have obtained the necessary information from a CRB certificate, the certificate will be destroyed and no information from the CRB will be retained by the Council.
- 3.6.10. As the Council do not directly employ any Hackney Carriage/Private Hire drivers, there is no requirement for a licensed driver to be registered with the Independent Safeguard Authority (ISA) to undertake normal licensed activity. If a licensed driver wishes to undertake regular work involving the transporting of vulnerable people, for

example school contracts, they will have to obtain an ISA registration and provide details of the registration to the employer.

3.7. Relevance of Convictions and Cautions

- 3.7.1. In relation to the consideration of convictions and cautions recorded against applicants, the Council will adopt the policy set out in Appendix D under Convictions Policy.
- 3.7.2. In assessing whether the applicant is a 'fit and proper' person to hold a licence, the Council will consider each case on its own merit. They 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. On receipt of a certificate from the CRB, the Licensing officer will assess whether any or all of the spent convictions are capable of having real relevance to the issue of whether or not the applicant is 'fit and proper' person to hold a licence and refer to the Licensing Sub-Committee for decision.
- 3.7.3. In relation to cautions, the Council will have regard to the class and age of the offence and the age of the applicant when the offence occurred, when considering their relevance to an application.
- 3.7.4. In relation to previous convictions, the Council will have regard to the following;
- Whether the convictions are spent or unspent;
 - The class of the offences;
 - The age of the offences;
 - The apparent seriousness, as gauged by the penalty.
- 3.7.5. Applications will be referred to the Licensing Committee where the applicant's record includes one or more of the following:
- Any term of imprisonment or custody;
 - Any conviction for a violent or sexual offence, or dishonesty;
 - Any serious motoring offence, such as dangerous driving, driving whilst disqualified, or drink driving;
 - Any drug related offence; or
 - Any combination of less serious offences where the Licensing officer is not minded to grant the application
 - More than nine points on their licence.
- 3.7.6. Where applicants have recently been living in another country, an Enhanced CRB check will still be required, although this will be of limited value. Therefore, in addition the applicant must produce a Certificate of Good Conduct, or equivalent document, issued and authenticated by the appropriate embassy or a statutory declaration of absence of convictions, signed by a solicitor.
- 3.7.7. A DVLA driver endorsement check will be required upon applications for new or renewal of driver licence applications, to ensure that the information held by the DVLA is in accordance with the information submitted by the applicant. The fee for the endorsement check will be incorporated into the application fee.

3.8. Application Procedure

- 3.8.1. An application for a Hackney Carriage/Private Hire driver's licence must be made on the specified application form. The application procedure is set out in Appendix C.
- 3.8.2. Holders of existing Hackney Carriage/Private Hire drivers licences will be reminded when they are due to apply for a licence, in the month preceding the month of expiry. Application forms and appropriate fees must be submitted at least twenty eight days prior to the expiry of the previous licence. Supporting documentation, as detailed in Appendix C, may be received as it becomes available, but no later than five working days prior to the expiry of the existing licence. The Council will not renew a driver's licence without all supporting documentation being received and satisfying the requirements of this Policy.
- 3.8.3. When submitted an application for renewal, applicants should be aware that it may take up to five working days to process and issue a licence once all relevant information and the fee have been received. If the licence has not been issued at the point when an existing licence expires, the licence holder must cease operating until the new licence has been received.
- 3.8.4. Once the date of expiry of an existing licence has passed and a valid renewal application form and fee has not been received, the licence automatically expires. All expired licences will be required to apply as a new licence application and meet all requirements of a new applicant.

3.9. Conditions of Licence

- 3.9.1. Conditions attached to a hackney carriage driver's licence are detailed in the Byelaws. In respect of private hire driver's licences it is permitted to attach conditions as are considered necessary.
- 3.9.2. It is considered that the conditions set out in Appendix E are reasonable, necessary and proportionate for all licensed drivers but accept that they may only be legally imposed in respect of private hire drivers.
- 3.9.3. The penalty point system detailed in Appendix J is not a condition of the licence. It is, however a transparent and consistent method for the Council to determine whether or not a driver meets the 'fit and proper' test.

3.10. Convictions during period of licence

- 3.10.1. Where offences resulting in conviction are committed by licensed drivers, it is important, in the interests of consistency and transparency, that a procedure should be in place to consider what effect this should have on their Hackney Carriage/Private Hire driver's licence.
- 3.10.2. Driver licence holders, who are convicted of any criminal or motoring offence during the period covered by their existing licence, must disclose the conviction and the penalty involved to the Council within seven days of the convictions. For these

purposes, any offence resulting in the acceptance of a fixed penalty notice will be considered to be a conviction.

- 3.10.3. Any breaches of relevant legislation or conditions attached to driver, operator and vehicles licences which may come to light following complaints, enforcement action, notification or investigations should be dealt with following the objectives of this Policy.
- 3.10.4. Any action taken in relation to the objectives of this Policy does not compromise the ability to supplement this action with the use of the penalty points system detailed in Appendix J.

3.11. Code of Good Conduct

- 3.11.1. Adopting a Code of Good Conduct for hackney carriage/private hire licence holders serves to promote the Council's licensing objectives in respect of the hackney carriage and private hire trades.
- 3.11.2. The standards expected of licence holders are detailed in the Code of Good Conduct included in this policy document as Appendix F. This appendix should read in conjunction with the other statutory and policy requirements detailed in this document.
- 3.11.3. By accepting a licence from the Council, licence holders will be deemed to have read and accepted the 'Code of Good Conduct', thereby agreeing to adhere to it.
- 3.11.4. Failure to adhere to the Council's 'Code of Good Conduct' will be dealt with in accordance with the objectives of this Policy, primarily through the use of the penalty points system detailed in Appendix J.

3.12. Drivers Dress Code

- 3.12.1. Any reasonable requirement that serves to enhance the professional image of the hackney carriage and private hire trade is to be welcomed.
- 3.12.2. Accordingly, the Council have introduced a Code of Dress for Licensed Drivers, detailed at Appendix G.
- 3.12.3. Failure to adhere to the Council's 'Drivers's Dress Code' will be dealt with in accordance with the objectives of this Policy, primarily through the use of the penalty points system detailed in Appendix J.

3.13. DVLA Licence Checking

- 3.13.1. In order to ensure that the Council have a driver's complete driving history, thus enabling a fully informed decision to be made in respect of an application, the Council will check the DVLA database for all new and renewal driver licence applications.
- 3.13.2. The application pack includes a Driving Entitlement Consent form where the applicant signs to give their consent for this check. The fee for the licence check will be incorporated into the application fee.

- 3.13.3. Any anomalies between the DVLA record and the applicants driving licence will be brought to the attention of the DVLA and the Police.

4. DISCIPLINARY AND ENFORCEMENT MEASURES

4.1. Enforcement

- 4.1.1. It is recognised that well-directed enforcement activity by the Council benefits not only the public but also the responsible members of the hackney carriage and private hire trades.
- 4.1.2. In pursuing its objective to encourage responsible hackney carriage and private hire businesses, the Council will operate a proportionate disciplinary and enforcement regime. In order to balance the promotion of public safety with the need to prevent unnecessary interference in a licence holder's business, the Council will only intervene where it is necessary and proportionate to do so.
- 4.1.3. Notwithstanding adhering to this Policy, the Council will also consider the Tunbridge Wells Borough Council Enforcement and Prosecution Policy.

4.2. Disciplinary Hearings

- 4.2.1. Whilst the day to day enforcement of hackney carriage and private hire licensing, including the issuing of penalty points, is a function carried out by the Licensing Officers under the supervision of the Licensing Manager, serious disciplinary matters will be referred to the Licensing Committee.
- 4.2.2. Serious disciplinary matters will include:
- An accumulation of twelve or more penalty points as detailed in Appendix J;
 - Any other incident or circumstance that may lead to the suspension of, revocation of, or refusal to re-licence
- 4.2.3. The Licensing Committee will consider the impact of transgressions of the law, or an accumulation of penalty points, on the fitness of an individual to hold a hackney carriage/private hire licence and take appropriate action.

4.3. Penalty Points Scheme

- 4.3.1. The Council has a responsibility to ensure that all drivers, owners and operators of vehicles adhere to basic minimum standards. The Council must do this in a reasonable, consistent and transparent manner.
- 4.3.2. These standards are defined by legislation and the Council's Hackney Carriage and Private Hire licensing Policy. Together they identify the Council's requirements of the trade and help to ensure consistent application of these standards by Council Officers.
- 4.3.3. In order to ensure compliance with the Council's Hackney Carriage and Private Hire Licensing Policy and to monitor licence holders ability to fulfil the 'fit and proper' test, a penalty points system will be utilised.

- 4.3.4. The system, as described in Appendix J will serve both as an early warning system to licence holders who fail to meet the Council's required standards and as a consistent and transparent method of enforcement. It will be used to deal with minor breaches or infringements of legislation, policy or unacceptable behaviour by those licensed by Tunbridge Wells Borough Council. Infringements incur penalty points in much the same way that points can be attached to a DLVA driving licence.
- 4.3.5. Penalty points remain on a licence for a period of two years from the date on which they are imposed. If a licence holder accumulates twelve or more penalty points within a period of twenty four months, commencing from the date of imposition of the earliest 'live' penalty points on the licence, they will be referred to the Licensing Committee.
- 4.3.6. The Licensing Committee will follow the objectives of this Policy and have a range of sanctions available, including suspension or revocation of the licence.
- 4.3.7. The adoption of the Penalty Points System will not, however, compromise the Council's ability to enforce breaches of statute or the Council's Licensing Policy in the Courts should an offence necessitate such action.

4.4. Range of Powers

4.4.1. Issuing of Warnings and Cautions

- 4.4.1.1. As a method of dealing with less serious matters, the Council will issue warnings and cautions where appropriate to the circumstances. Minor or first-time transgressions are likely to attract either an oral or written warning. Repeated or more serious conduct is likely to lead to the issuing of a formal caution, provided:

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

4.4.2. Suspension - Vehicles

- 4.4.2.1. Hackney Carriage and private hire vehicles must be kept in an efficient, safe, tidy and clean condition at all times. Compliance with the vehicle specifications and conditions is essential and will be enforced by periodic, random vehicle inspections by the Council. Where it is found that any vehicle is not being properly maintained, a defect(s) notice will be served on the licence holder setting out the defect(s) and the required action.
- 4.4.2.2. Where there is a risk to public safety the further use of the vehicle will be suspended until the defects have been remedied. The suspension will not then be lifted until the vehicle has undergone a further test, at the licence holder's expense, and been passed as fit for use as a hackney carriage or private hire vehicle by a Licensing Officer.

4.4.3. Suspension - Drivers

- 4.4.3.1. The Council may exercise its discretion to suspend the operation of a driver's licence for a specified period. Such action will, however, only be taken by the Licensing Committee in conjunction with Section 8.8.7 of this Policy.

4.4.4. Revocation

- 4.4.4.1. Where a licence holder has been referred to the Licensing Sub Committee because they have been convicted of a serious criminal offence, or have accumulated twelve or more penalty points under the Council's penalty points system, the Licensing Committee may order the revocation of the licence.

4.4.5. Refusal to Renewal

- 4.4.5.1. As an alternative to revocation, the Licensing Committee may decide that the appropriate action, in a situation where the licence is shortly to expire, is to order that the licence shall not be renewed.

4.4.6. Prosecution

- 4.4.6.1. Notwithstanding anything detailed in this Policy, the Council's discretion to prosecute for offence is not fettered.

4.5. **Referrals to the Licensing Committee**

- 4.5.1. Whilst it is envisaged that the majority of enforcement actions, can be dealt with by Officers, the following matters will normally be referred to the Licensing Committee due to their serious nature and the risk to public safety:

- refusal to carry a passenger without good reason;
- unlawful plying for hire;
- more than one offence of touting for business;
- more than one valid complaint of a similar nature in relation to driver's behaviour;
- overcharging; and
- any conviction relevant to Appendix D.

4.6. **Complaints Procedure – Customer**

- 4.6.1. Fortunately, complaints against hackney carriage/private hire drivers are relatively low in Tunbridge Wells. It is important to us that every licensed driver is a 'fit and proper' person to be driving members of the public in their vehicle.
- 4.6.2. If you have a complaint where you think that the hackney carriage/private hire drivers is not a 'fit and proper' person, then please follow the procedure set out in Appendix P.

4.7. **Complaints Procedure – Driver**

- 4.7.1. If you are a driver and you wish to make a complaint against another driver, please be aware that the Council can only deal with this if it is likely to indicate that a driver is not a 'fit and proper' person to be carrying passengers in their vehicle. We cannot normally intervene in arguments between drivers.
- 4.7.2. If the offending driver is employed by a company then you should complain to the company.
- 4.7.3. If your complaint can be dealt with by us then please follow the procedure for customer complaints above.
- 4.7.4. There are some incidents that may also be against the law. For example racist behaviour or comments and any form of harassment then you should report this to the Police.

4.8. Offences

- 4.8.1. Offences in relation to hackney carriages and private hire vehicles are derived for the following sources:
 - Town Police Clauses Act 1847 (hackney carriages only);
 - Local Government (Miscellaneous Provisions) Act 1976 (hackney carriages and private hire vehicles);
 - Transport Act 1980 (private hire vehicles only);
 - The Council's Hackney Carriage and Private Hire Licensing Policy (hackney carriage and private hire vehicles)
- 4.8.2. It is also an offence to smoke, to allow a person to smoke, or fail to display appropriate signage in a licensed hackney carriage or private hire vehicle. Further details can be found in the Health Act 2006.

5. PRIVATE HIRE OPERATORS

5.1. Requirements and Obligations

- 5.1.1. Any person who operates a private hire service utilising one or more private hire vehicles must apply to the Council for a Private Hire Operator's Licence.
- 5.1.2. The primary objective in licensing private hire operators is the safety of the public, both in the vehicles and at the operator's premises.
- 5.1.3. A private hire vehicle may only be despatched to a customer by a private hire operator who holds a private hire operator's licence. Such a licence permits the operator to make provision for the invitation or acceptance of bookings for a private hire vehicle.
- 5.1.4. A private hire operator must ensure that every private hire vehicle is driven by a person who holds a private hire driver's licence.

5.1.5. All three licences:

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

must be issued by the same Licensing Authority.

5.1.6. Applications for operators' licences must be made on the prescribed form, together with the appropriate fee. The Council will then decide whether the applicant is a 'fit and proper' person to hold an operator's licence.

5.2. Criminal Record Checks

5.2.1. Private hire operators, that are not licensed drivers, cannot be required to produce an enhanced CRB disclosure. A Basic Disclosure from the Criminal Records Bureau, or a certificate of good conduct from the relevant embassy for overseas applicants, is however, considered appropriate in promoting the objective of public safety.

5.2.2. Before an application for a private hire operators' licence will be considered, the applicant must provide a current (less than three months old) Basic CRB Disclosure of Criminal Convictions (issued specifically for Tunbridge Wells Borough Council), or a Certificate of Good Conduct from the relevant embassy in the case of an overseas applicant. Applicants that hold a current Drivers Licence with the Council will be exempt from this requirement.

5.3. Conditions

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

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

5.4. Insurance

5.4.1. It is considered appropriate for a Licensing Authority to check that appropriate public liability insurance has been taken out for premises that are open to the public.

5.4.2. Before an application for a private hire operator's licence is granted, the applicant must produce evidence that they have taken out appropriate public liability insurance for the premises to be licensed.

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

5.5. Licence Duration

- 5.5.1. The Department of Transport considers that annual licence renewal is not necessary or appropriate for private hire operators. They recommend, as good practice, that a licence period of five years would be reasonable.
- 5.5.2. The Council consider, however, that five years is a considerable period of time in the context of the life of this type of business.
- 5.5.3. The Council will, therefore, issue a successful applicant for a Private Hire Operator's Licence with a three-year licence from the date of grant; subject to the power to grant a licence for a shorter period of time should this be appropriate in the circumstances.
- 5.5.4. The licence period for a Private Hire Operator's licence will run for three years from the date of grant.

5.6. Address from which an Operator may operate

- 5.6.1. Upon the grant of an operator's licence, the Council will specify on the licence the address from which the operator may operate. This address will be the address stated on the application form. The operator must notify the Council in writing of any change of address during the period of the licence, whether this is a home address or the operating address, within seven days of such a change taking place.

5.7. Gaming Machines

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

6. FARES

6.1. General

- 6.1.1. Hackney Carriage Fares, set by the Council, are a maximum and can be negotiated downwards by the hirer.
- 6.1.2. When determining the level of fares, consideration will be given to what is reasonable to expect the travelling public to pay as well as the need to give the drivers an incentive to provide a cost-effective service at all times it is needed.
- 6.1.3. Out of zone journeys can be negotiated prior to the commencement of the journey in both private hire vehicles and hackney carriages.
- 6.1.4. One of the main complaints relating to hackney carriage concerns overcharging. To protect the fare paying public from overcharging, as well as to protect the drivers from complaints, the Council will operate a simple fare tariff that must be displayed in all hackney carriages.

6.1.5. In reviewing the fares tariff on an annual basis, the Council will consult with the trade and follow the appropriate procedures detailed in the Local Government (Miscellaneous Provisions) Act 1976.

6.1.6. These regulations in relation to fares do not apply to private hire vehicles.

6.2. Table of Fares

6.2.1. The maximum fares currently prescribed by the Council are set out on the Council's website. A table of authorised fares will be provided to each hackney carriage licence holder, which must then be displayed in each vehicle so that it is easily visible to all hirers.

6.2.2. Although each individual hackney carriage zone is a District in its own right, the Council, acting as licensing authority for each District, will normally set one fare tariff for the whole of Tunbridge Wells. The nature of the zones is such that there are no discernible differences between zones that would necessitate the setting of individual zone fare tariffs. The Council will, however, keep this situation under review and will consider any representations in this respect as part of the fare setting consultation.

6.3. General

6.3.1. A hackney carriage driver must, if requested by the passenger, provide a written receipt of the fare paid.

6.4. Commencement of the journey in a Hackney Carriage

6.4.1. For the avoidance of doubt, the meter in a hackney carriage must only be started at the commencement of the journey that is the time when the customer enters the vehicle.

6.4.2. It is not permitted to start the meter at a rank/stand or operating base whilst en route to collect a passenger.

7. FEES

7.1. Fee Structure

7.1.1. The legislation provides that these should be sufficient to cover the costs of inspecting the vehicles, providing hackney carriage stands, and administration the control and supervision of hackney carriage and private hire vehicles.

7.1.2. The fees currently payable for the grant and renewal of hackney carriage and private hire licences are set out on the Councils' website. The fee structure is reviewed annually as part of the Council's budgetary process.

7.1.3. The setting of fees is the responsibility of the Head of Environment and Street Scene in consultation with the Licensing Committee.

7.1.4. Although each individual hackney carriage zone is a District in its own right, the Council, acting as licensing authority for each District, will normally set one fee

structure for the whole of Tunbridge Wells. The nature of the administration and enforcement of hackney carriage licensing is such that there are no discernible differences between zones as the process is identical. The Council will, however, keep this situation under review and will consider any representations in this respect when Elected Members set the fee structure.

7.2. Refunds, Transfers and Duplicate Copies

- 7.2.1. In common most types of licence, an appropriate fee will be paid to cover the administration costs associated with the transfer of a licence.
- 7.2.2. Where the Council receives a request for a duplicate copy of any previously issued licence, an appropriate fee will be paid to cover the associated administrative costs.
- 7.2.3. In the case of a licence application that has been refused, the application fee will be refunded less the administrative charge to cover the cost of the application process.

8. TAXI BAYS/RANKS

8.1. Appointed Stands

- 8.1.1. The Council will periodically review the provision of hackney carriage stands within the Borough. In the event that there is evidence of the need to amend the existing provisions, a full consultation would be undertaken prior to any amendments.
- 8.1.2. Comments are welcomed from either the trade or the public on the need for additional bays in specific locations, the potential for re-locating or extending existing bays or indeed arguments for the removal of bays which no longer fulfil a useful purpose.

8.2. Waiting on Stands

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

8.3. Plying for Hire

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

8.4. Taxi Liaison Meetings

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

8.5. Departure from the Policy

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

8.6. Amendments to the Policy

- 8.6.1. All changes to the Policy are made by the Licensing Committee only.

APPENDIX A

VEHICLE SPECIFICATION

A 1. General

- A 1.1. All hackney carriage or private hire vehicles shall comply in all respects with the requirements of the Policy. This is in addition to all requirements of road traffic regulations and legislation relating to all motor vehicles, including any Council byelaws which may be appropriate.
- A 1.2. Vehicles shall normally have European Community M1 type approval and must comply in all respects to:
- the Motor Vehicle (Type Approval) Regulations 1980 (European Community Whole Vehicle Type Approval); or
 - the Motor Vehicle (Type Approval) Regulations 1984 (United Kingdom Low Volume Type Approval),
- and in use must comply with the Road Vehicles (Construction and Use) Regulations 1986.
- (all as amended from time to time)
- A 1.3. Motor vehicles which have M Type approval (European Community Whole Vehicle Type Approval) and have been modified or have been subject to any alterations since manufacture will be considered provided that they are presented with:
- United Kingdom Low Volume/Small Series Type Approval for Passengers Cars; or
 - United Kingdom Single Vehicle Type Approval
- A 1.4. However, United Kingdom Single Vehicle Type Approval will not be accepted where the seat belts fitted to the vehicle are:
- not those fitted by the manufacturer and tested in accordance with the vehicle's original type approval, or
 - were the vehicle has been fitted with seating/wheelchair tracking which may invalidate the original type approval for any seats fitted to the vehicle, except where evidence is produced by the applicant(s) that this is not the case.
- A 1.5. Motor vehicles which have N type approval (European Community Whole Vehicle Type Approval) will not normally be considered unless they are presented with United Kingdom Low Volume/Small Series Type Approval for Passenger Cars.
- A 1.6. All vehicles shall:

- be capable of carrying not less than four passengers,
- be fitted with a right hand drive
- (special conditions apply to stretched limousines)

A 1.7. Vehicles must have no damage affecting the structural safety of the vehicle and must not have been written off for insurance purposes at any time.

A 1.8. All vehicles shall be maintained in sound and roadworthy condition at all times and serviced according to the manufacturer's recommendations.

A 2. Vehicle Type

A 2.1. General (all applications)

A 2.1.1. Left-hand drive vehicles will not be considered for licensing, with the exception of stretched limousines as detailed in Appendix B.

A 2.2. Applications

A 2.2.1. All vehicles for new hackney carriage licence applications must be either:

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

A 2.2.2. All vehicles for new private hire licence applications must be either:

- a saloon, estate or hatchback type vehicle with at least four side doors, or
- a purpose-built mini-bus designed to carry not less than four nor more than eight passengers.

A 3. Hackney Carriage and Private Hire Vehicles

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

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

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

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

A 4. Doors

- A 4.1. All saloon, estate, hatchback, or 'London style' hackney carriage and private hire vehicles shall have at least four side-opening doors, which may be opened from the inside and the outside.
- A 4.2. Minibuses, transits and multi-passenger vehicles shall have at least three (3) doors not including any tailgate or rear doors. There must be a minimum of one hundred and thirty seven centimetres width between door handles.
- A 4.3. All vehicles must have sufficient safe and suitable access and egress from the vehicle for the driver and all passengers, excluding the rear exit and the driver's front door.

A 5. Tyres

- A 5.1. The licensed vehicle must be fitted with either all radial or all cross-ply tyres, including the spare wheel.
- A 5.2. All tyres, including the spare wheel, must be suitable for use on the vehicle and conform to the requirements of the Original Manufacturers' Specification.
- A 5.3. Run-flat tyres are acceptable on licensed vehicles.
- A 5.4. 'Space-saver' spare tyres are acceptable on licensed vehicles if they conform to the Original Manufacturers' Specification.
- A 5.5. If a 'space-saver' spare tyre is used on a licensed vehicle it must only be for the duration of completing the current fare and returning to a garage to obtain a suitable replacement. No further fares may be taken whilst the 'space-saver' spare tyre is being used on the vehicle.
- A 5.6. Original Manufacturers' Specification 'tyre repair kits/compressor' are permitted within licensed vehicles provided they comply with the relevant British Standards.
- A 5.7. If a 'tyre repair kit/compressor' is used on a licensed vehicle in lieu of a spare tyre it must only be for the duration of completing the current fare and returning to a garage to obtain a suitable replacement. No further fares may be taken whilst the tyre repaired with the 'tyre repair kit /compressor' is being used on the vehicle.

A 6. Drivers' Vehicle Mirrors

- A 6.1. External rear view mirrors must be fitted to both sides of all licensed vehicles.
- A 6.2. All licensed vehicles must have an internal rear view mirror appropriately fitted in accordance with appropriate legislation and/or manufacturers' specification.

A 7. Interior Dimensions

- A 7.1. There must be sufficient space between the seat cushions and the lowest part of the roof to safely accommodate the driver and passengers in reasonable comfort. Eighty six centimetres is the minimum recommended.
- A 7.2. There must be sufficient space between the front and back seats to safely accommodate the driver and passengers in reasonable comfort. There must be at least eighteen centimetres between the back of the front seat and the front of the next row of rear seats.

A 8. Seats

- A 8.1. Access to every passenger seat must be unobstructed and be easily accessible to passengers without the need for seats to be folded or removed and without the need for more than one passenger to move.

- A 8.2. Passenger seats must be at least forty one centimetres wide per passenger with no significant intrusion by wheel arches, armrests or other parts of the vehicle. Measurements are to be taken laterally along the widest part of the seat.
- A 8.3. Unless the Original Manufacturers' Specification states otherwise, the front seat of the vehicle next to the driver will be regarded as a seat for one passenger only.

A 9. Seat Belts

- A 9.1. All vehicles must be fitted with fully operational seat belts, one for each passenger to be carried, fully compliant with the relevant British Standards, except where legislation specifically provides an exemption.
- A 9.2. In relation to the carriage of all passengers, including children, the requirements of all relevant legislation must be complied with.

A 10. Passenger Capacity

- A 10.1. All licensed vehicles should be capable of carrying not less than four and not more than eight passengers.
- A 10.2. The seating capacity for each licensed vehicle will be determined by the Council in accordance with the requirements of Appendix K of this Policy. The vehicle licence plate will state the number of passengers applicable to the vehicle.

A 11. Fire Extinguishers

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

A 12. First Aid Kit

- A 12.1. All licensed vehicles must carry a first aid kit suitable for treating minor injuries that complies with the advice of the Health and Safety Executive as a minimum. There is no requirement for a driver to administer first aid treatment; however, the first aid kit should be made available to passengers or appropriate persons where appropriate.

A 12.2. The first aid kit should be stored in such a position so as to be readily available to the driver at all times.

A 12.3. The first aid kit should be marked with the registration or plate number of the vehicle and replenished as necessary to conform to any product expiry date.

A 13. Complaints recording for customers

A 13.1. All licensed vehicles must carry a sufficient supply of clean and legibly printed tickets in the following forms or substantially in the form as in Appendix O. These should be made available to passengers in the event of a complaint.

A 14. Ventilation

A 14.1. Windows must be provided to all passenger compartments along with adequate means of opening and closing not less than one window on either side of the vehicle, in both the front and rear passenger compartments.

A 14.2. Rear passenger windows must be capable of being opened by passengers when seated.

A 15. Luggage

A 15.1. Adequate storage for passenger luggage must be available. Luggage carried must be suitably secured in place without obstructing any emergency exits.

A 15.2. If the licensed vehicle is an estate, hatchback, or multi-passenger type vehicle, it must be fitted with a guard-rail or manufacturer's specification compartment cover, approved by the Council, to prevent luggage from entering the rear passenger compartments. Exemption from this requirement will only be given where the construction of the vehicle, in the Council's opinion, does not require such a rail or cover.

A 16. Maintenance and Condition of the Vehicle

A 16.1. The exterior of all licensed vehicles shall be maintained in a clean, safe and proper manner at all times. In particular, the exterior of the vehicle shall:

- be free of large and/or sharp-edged dents;
- be free of visible rust;
- be free of unrepaired accident damage (except where a Licensing Officer has agreed a time period for cosmetic repairs under Section A30.2;
- have uniform paintwork equivalent to that applied by the manufacturer; and
- be maintained in an acceptable state of cleanliness, (discretion may be given during periods of adverse weather).

- A 16.2. The interior of all licensed vehicles shall be maintained in a clean, safe and proper manner at all times. In particular, the interior of the vehicle shall:
- be free of all stains to the upholstery;
 - be free of all splits and tears to the seats;
 - be maintained in an acceptable state of cleanliness; and
 - provide seats functioning in accordance with the Original Manufacturers' Specification.
- A 16.3. For the avoidance of doubt, any vehicle that would not pass an Engineer's Report or MOT should not be used until such time as the requirements of the Engineer's Report and MOT can be met.
- A 16.4. All licensed vehicles shall be liable to be randomly inspected and tested by Authorised Council Officer or the Police. If it is discovered during an inspection that a vehicle is not being properly maintained, an Improvement Notice may be served on the owner under Section 68 of the Local Government (Miscellaneous Provisions) Act 1976. This notice will specify the defects and the action required to remedy the problem.
- A 16.5. Failure to comply with the requirements of an Improvement Notice will be considered a serious breach of licensing requirements and dealt with accordingly. If the requirements of an Improvement Notice are not rectified within two months, the vehicle licence can be revoked in accordance with Section 68 of the Local Government (Miscellaneous Provisions) Act 1976.

A 17. Modifications

- A 17.1. No material alteration or change in the specification, design, condition or appearance of any licensed vehicle may be made without:
- compliance with road traffic legislation;
 - compliance with insurance requirements; and
 - obtaining approval for the changes(s) from the Council.

A 18. Licence Plate

- A 18.1. At all times when a vehicle is licensed as a hackney carriage or private hire vehicle, unless an exemption has been granted under Section 17.3 of this Policy, the vehicle must:
- display the licence plate provided by the Council, securely fixed externally in a prominent position on or above the rear bumper of the vehicle
- A 18.2. The licence plate remains the property of the Council and must be returned within seven (7) days when:
- the vehicle ceases to be licensed as a hackney carriage or private hire vehicle; or

- requested to do so by an Authorised Officer of the Council in writing when the plate is suspended, revoked, or has expired.

- A 18.3. Exemption to the requirements of Section A17.1 of this Policy may be given in certain circumstances to private hire vehicles. In order to qualify for exemption, a written letter of exemption must be obtained from the Council and carried in the vehicle in these circumstances.
- A 18.4. In the absence of an exemption letter in the vehicle, the requirements of Section A17.1 above must be complied with.

A 19. Signage

A 19.1. Hackney Carriage Vehicle Markings

- A 19.2. Hackney carriage vehicles, other than those with built-in roof signs, must be fitted with an illuminated external sign on and above the roof of the vehicle. The sign must display either:

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

- A 19.3. The roof sign and lettering shall be of an appropriate size to enable it to be clearly identifiable to the public.

- A 19.4. The illuminated external roof sign, including built-in roof signs, must be switched off when the vehicle has been hired and illuminated when available for hire.

- A 19.5. The roof sign, other than those built-in to the vehicle, must be mounted on the forward half of the vehicle roof and be adequately secured.

- A 19.6. An internal illuminated 'FOR HIRE' sign may be fitted in licensed hackney carriages, in a position approved by the Council. The sign's illumination must be switched off when the vehicle has been hired.

A 19.7. Private Hire Vehicle Markings

- A 19.7.1. A private hire vehicle must not carry any roof sign or any markings that may give the impression that it is a hackney carriage.

- A 19.7.2. Any advertising or signage on the vehicle must not include the words 'Taxi' 'cab', 'hackney carriage' or 'hire'.

- A 19.7.3. In the case of the word Taxi being part of the company name, for example "XYZ Taxis", the company name may be displayed on the vehicle provided that there is also reference to the fact that the vehicle is a private hire vehicle and must be pre-booked.

A 19.7.4. Private hire vehicles must display a 'pre-booked only' sign on the nearside back and offside back doors stating two lines of text:

- 'PRIVATE HIRE'
- 'PRE-BOOKED ONLY'

A 19.7.5. These signs are available from the Licensing Team at Tunbridge Wells Borough Council, the offices of Gateway 8 Grosvenor Road, Royal Tunbridge Wells, TN1 2AB or the Licensing Partnership based at Sevenoaks District Council, Argyle Road, Sevenoaks Kent TN13 1HG.

A 20. Advertising

A 20.1. No more than five (5) external advertisements shall be permitted on hackney carriages or private hire vehicles. The roof sign on hackney carriages is not included as an advertisement for the purpose of this section.

A 20.2. External advertisements shall be confined to the front door panels or the rear of the vehicle.

A 20.3. Any advertisement on the front doors panels or rear of the vehicle must be restricted to the name, logo or insignia, telephone number, or other contact details of the owner or operator of the vehicle. No other advertisement is permitted on the front door panels or rear of the vehicle.

A 20.4. No advertisement shall obliterate, obscure or be confused with the vehicle's licence plate.

A 20.5. Internal advertisements are permitted on the windscreen or rear window but must be:

- no wider than ten centimetres; and
- positioned so that they do not obstruct the driver's view in any way; and
- be restricted to the name, logo or insignia, telephone number, or other contact details of the owner or operator of the vehicle.

A 20.6. For the purposes of this section, the display of 'no smoking' signage, as required by legislation, is not considered to be advertising.

A 20.7. For the purpose of this section, a sign indicating that the vehicle is able to convey passengers in wheelchairs (provided that the vehicle has been manufactured or properly adapted for that purpose) is not considered to be advertising.

A 20.8. All advertisements shall be in good taste and contain no material that may be considered to be offensive to any section of the community.

A 20.9. The owner of any vehicle displaying an advertisement that does not confirm to this section of the Policy will be required to remove the offending advertisement. Until

such time as the offending advertisements has been removed, the vehicle licence will be suspended.

A 21. Communications Devices

- A 21.1. All two-way radio equipment must be of a type currently approved by the Radio Communications Agency <http://www.ofcom.org.uk/static/archive/ra/rahome.htm>
- A 21.2. All radio equipment fitted to the vehicle must be fitted securely and safely in accordance with guidelines for the time being published by the Radio Communications Agency.
- A 21.3. Only one two-way radio may be operational in the vehicle at any one time and this shall be an approved licensed radio used exclusively for the hackney carriage or private hire vehicle.
- A 21.4. The use of a Citizen Band (CB) transmitter or receiver is prohibited.
- A 21.5. The use of radio scanning devices is prohibited and such devices must not be fitted or carried in the vehicle.

A 22. Meters

- A 22.1. Hackney carriages
 - A 22.1.1. An approved taximeter must be fitted in all hackney carriages and must be correctly calibrated, sealed and fully functional in accordance with the current Council approved fare structure.
 - A 22.1.2. All taximeters must be appropriately stamped to ensure compliance with The Measuring Instruments (Taximeters) Regulations 2006, or any subsequent legislation.
 - A 22.1.3. The taximeter shall be positioned so that the display on the face of the meter may clearly visible to any person being conveyed in the vehicle at all times. The dial of the taximeter shall be kept properly illuminated throughout any part of the hiring including during the hours of darkness and also at any time at the request of the hirer.
 - A 22.1.4. When the meter is operating there shall be recorded on the face of the meter in clearly legible figures a fare not exceeding the maximum fare that may be charged for a journey.
 - A 22.1.5. An official copy of the Council's fare tariff shall be clearly displayed and legible in the vehicle so as to be plainly visible to passengers carried therein.
 - A 22.1.6. The vehicle taximeter shall be brought into operation at the commencement of the journey and the fare demanded by the drivers shall not be greater than that fixed by this Council in connection with the fare tariff for the hire of hackney carriages.

A 22.1.7. In the event of such a journey commencing in but ending outside the hackney carriage zone, there may charge for the journey such fare as was agreed before the hiring was effected. If no such agreement was made then the fare to be charged should be no greater than that fixed by the Council in connection with the fare tariff for the hire of hackney carriages.

A 22.2. Private Hire

A 22.2.1. Private hire vehicles are not required to be fitted with a taximeter. Where a taximeter or other device for recording fares is fitted, however, it must be of a type approved by the Council. See Appendix Q

A 22.2.2. Private hire vehicle drivers should agree the cost of the journey with the passenger(s) prior to undertaking the journey. At the conclusion of the journey, the fare charged should not exceed the amount previously agreed.

A 23. Trailers

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

- The driver's DVLA driving licence must cover the categories that allow the towing of trailers, currently 'BE' for Cars and 'D1E' for a minibus, as amended by any subsequent legislation;
- The trailer must at all times comply with all requirements of road traffic legislation, in particular those as laid down in the Road Vehicles (Construction and Use) Regulations 1986;
- The vehicle insurance must include cover for towing a trailer;
- Trailers must not be left unattended anywhere on the highway;
- The speed restrictions applicable to trailers must be observed at all times;
- A suitable lid or other approved means of enclosure shall be fitted to secure and cover the contents of the trailer whenever in use;
- Trailers must be approved by the Council's nominated garage;
- Trailers must undergo any inspection required by the Council;
- Trailers must display an identical licence plate to the licensed vehicle. The Council may charge an administrative fee for the duplicate plate;
- Trailers cannot be used on a hackney carriage rank and should only be used for specific pre-booked journeys, not whilst plying for hire.

A 24. Disability Access

A 24.1. In the case of all hackney vehicles, which are built or adapted for disabled passengers, the design of the vehicle should ensure that any wheelchair is loaded from the side rather than the rear of the vehicle. This is to ensure that it is possible for disabled persons to get into and out of hackney carriages in safety.

- A 24.2. Where a vehicle is utilised for the carriage of passengers in a wheelchair, the following conditions shall apply:
- Access to and exit from the wheelchair position must not be obstructed in any manner at any time except by wheelchair loading apparatus;
 - Wheelchair internal anchorage must be of the manufacturer's design and construction and secured in such a position as not to obstruct any emergency exit;
 - A suitable restraint must be available for the occupant of a wheelchair;
 - Access ramps or lifts to the vehicle must be securely fixed prior to use, and be able to support the wheelchair, occupant and helper;
 - Ramps and lifts must be securely stored in the vehicle before it may move off.
- A 24.3. Any equipment fitted to the vehicle for the purpose of lifting a wheelchair into the vehicle must have been tested in accordance with the requirements of the Lifting Operations and Lifting Equipments Regulations 1998 (S.I.1998/2307). Any such equipments must be maintained in good working order and be available for use at all times.
- A 24.4. Where a vehicle is designed or adapted to carry a wheelchair, the proprietor shall ensure that the driver has received sufficient training to safely load and convey wheelchair bound passengers.

A 25. Vehicles Powered by Liquid Petroleum Gas (LPG)

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

A 26. Tinted Windows

- A 26.1. The front windscreen, front drivers' side window and front passenger's side window must be clear glass. Exemption from this requirement will be given for original manufacturer's specification 'light tint' glass.
- A 26.2. The rear windscreens of any vehicle shall not have been treated so that less than 75% of light is transmitted through it, and the rear passengers compartment side

windows of any vehicle so that less than 70% of light is transmitted through them unless the following criteria can be met:

- The vehicle is licensed as a private hire vehicle only; and
- The vehicle is a stretched limousine vehicle (see separate additional conditions for limousines at Appendix B); and
- The vehicle will not be engaged at any time in any contract for the carriage of school children; and
- The Private Hire Operator must, unless such a vehicle has been specifically requested, inform a hirer that such a vehicle will be supplied.

A 27. Insurance

- A 27.1. There shall be a policy of insurance, or such security as complies with the requirements of Part IV of the Road Traffic Act 1972, during the duration of the vehicle licence. Under no circumstances will a vehicle licence be issued or renewed without proof that this section has been complied with.
- A 27.2. The registered owner of the licensed vehicle shall ensure that it is adequately insured to the satisfaction of the Council and all relevant legislation at all times that it is available for the carrying of passengers.
- A 27.3. At any time when the requirements of this section of the Policy have not been satisfied, the vehicle licence will automatically be suspended until such time as adequate insurance has been obtained.

A 28. Changes

- A 28.1. Any change affecting this vehicle licence must be notified within fourteen days of such change, to the Licensing Officer.
- A 28.2. When the holder of a vehicle licence wishes to transfer the licence to another person he must notify the Council, in writing, using the prescribed application form and paying the appropriate fee before such change takes place.

A 29. Inspection

- A 29.1. All hackney carriage and private hire vehicles must be available for inspection at all times when requested by an Authorised Officer of the Council or a Police Officer.
- A 29.2. All vehicle documentation must be produced within twenty four hours, or such other time as specified, when requested by an Authorised Officer of the Council or a Police Officer.

A 30. Unauthorized Use

- A 30.1. The proprietor of a hackney carriage or private hire vehicle shall not allow the vehicle to be driven and used for hire by any person who does not hold an appropriate hackney carriage/private hire driver's licence issued by The Council.
- A 30.2. For the avoidance of doubt, case law has established that once licensed as a hackney carriage or private hire vehicle, the vehicle remains a licensed vehicle at all times until the licence expires, is surrendered, is suspended or is revoked. Even if a licensed vehicle is being used for private purposes, it must still meet all the requirements of a licensed vehicle, for example displaying a licence plate and being driven by a licensed driver.

A 31. Accident Reporting

- A 31.1. In accordance with Section 50(3) of the Local Government (Miscellaneous Provisions) Act 1976, any accident to a hackney carriage or private hire vehicle causing damage materially affecting:
- The safety, performance or appearance of the vehicle, or
 - The comfort or convenience of the passengers,
- must be reported to the Council as soon as reasonably practicable, and in any case within seventy-two hours of the occurrence thereof.
- A 31.2. Where, following an accident or damage to a licensed vehicle as defined above (A30.1), and it is the intention of the owner or operator to continue licensed use. It is the responsibility of the licence holder to notify the Council that this requirement has been satisfied.
- A 31.3. If one of the Council's approved garages determines that the vehicle is fit for continued use, the time-scale for cosmetic repairs must be agreed with a Council Licensing Officer.
- A 31.4. The Council may suspend the use of a licensed vehicle until it is suitably repaired and conforms to the requirements of this Policy.
- A 31.5. A licensed vehicle which has suffered major accident damage or requires substantial mechanical repair may be temporarily replaced by a hire vehicle provided:
- The damage to, or defect in, the vehicle has been reported;
 - An application is made in the prescribed manner for a vehicle licence transfer;
 - The replacement vehicle meets the requirements of the Council's Hackney Carriage and Private Hire Licensing Policy and is suitable to be used for hire purposes;
 - The hiring of the hire vehicle is organised and paid for by the affected licensed owner or operator.

A 32. Miscellaneous

A 32.1. The proprietor of a hackney carriage or private hire vehicle shall not knowingly cause or permit the vehicle to be sued for any illegal or immoral purpose.

A 32.2. Nothing in this Policy shall be interpreted as overriding the provisions of:

- The Town Police Clauses Act 1847, as amended;
- The Local Government (Miscellaneous Provisions) Act 1976, as amended;
- The Transport Act 1980, as amended;
- Or any other relevant legislation.

A 33. Health Act 2006

A 33.1. It is the responsibility of both the driver and the proprietor to ensure no smoking signage, as prescribed by the Health Act 2006, is displayed in all licensed hackney carriages or private hire vehicles at all times

APPENDIX B

ADDITIONAL CONDITIONS FOR LICENSING STRETCHED LIMOUSINES

B 1. Definition

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

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

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

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

B 2. Licensing Conditions

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

B 2.2. Left-Hand Drive.

B 2.2.1. Left-hand drive limousines will be permitted as private hire vehicles.

B 2.3. Seating.

B 2.3.1. Sideways facing seating will be permitted in limousines providing that it conforms with all relevant road traffic vehicle legislation.

B 2.4. Roadworthiness

B 2.4.1. All limousines licensed as private hire vehicles must hold a valid Single Vehicle Approval (SVA) Certificate.

B 2.5. Insurance

B 2.5.1. All limousines licensed as private hire vehicles must have appropriate insurance to cover the provision of a service to the public for hire and reward, taking into account the specification of the vehicle.

B 2.6. Tyres

- B 2.6.1. Given the increased weight of the vehicle, the vehicle must be fitted with tyres of appropriate size and grade to conform with the Original Manufacturers' Specification.
- B 2.7. Vehicle Testing
 - B 2.7.1. All limousines licensed as private hire vehicles must obtain six-monthly test certificates showing that the vehicle has satisfied the standards of the appropriate MOT Class. The vehicle licence holder is responsible for sourcing a garage approved to carry out such tests and providing documentation attesting to the garage's compliance with the requirements of Section B4 of this Policy
- B 2.8. Carrying of Passengers
 - B 2.8.1. All limousines licensed as private hire vehicles must reduce their seating capacity of a maximum of eight passengers.
 - B 2.8.2. Passengers shall not be permitted to be carried in any seats in the driver's compartment.
 - B 2.8.3. The vehicle must not carry more than eight passengers at any time. For the purpose of counting passengers, a child of any age will be classed as a passenger.
- B 2.9. Advertising
 - B 2.9.1. In any advertisement publicising a limousine service, the advertisement must state that the vehicle is only licensed to carry eight passengers.
- B 2.10. Seat Belts
 - B 2.10.1. Seatbelts complying to all relevant legislation must be fitted to all forward and rear facing seats and must be worn by passengers at all times the vehicle is in motion.
 - B 2.10.2. There is no legal requirement for seatbelts to be fitted on sideways facing seats, however, if they are fitted they must be worn by passengers at all times the vehicle is in motion.
- B 2.11. Provision of Alcohol
 - B 2.11.1. Alcoholic drinks may only be provided in the vehicle when the vehicle is complying with all relevant requirements of the Licensing Act 2003.
 - B 2.11.2. Alcohol shall only be served whilst the vehicle is stationary. Whilst the vehicle is in motion, all receptacles containing alcohol shall be securely stored.
 - B 2.11.3. If any occupants of the vehicle are below the age of eighteen years old, the vehicle must not contain any alcohol.

B 2.11.4. All glassware used in the vehicle must be made of shatterproof glass, or alternatively be made of plastic. The vehicle proprietor should also be aware of the Council's Statement of Licensing Policy in respect of the Licensing Act 2003.

B 2.12. Provision of Entertainment

B 2.12.1. The driver shall not play or permit the performance of any media that, given its age classification or content, is unsuitable for the age of the youngest passenger in the vehicle.

B 2.12.2. The limousine proprietor shall ensure that a Performing Rights Society (PRS) Licence and Phonographic Performance Licence (PPL) are held for the vehicle, where appropriate.

B 2.12.3. If the limousine parks to provide some form of licensable entertainment for its passengers, only entertainment complying with the relevant requirements of the Licensing Act 2003 shall be permitted.

B 2.13. Luggage

B 2.13.1. Limousines licensed as private hire vehicles are not permitted to carry luggage within the passenger compartment of the vehicle.

B 2.14. Safety Hammer

B 2.14.1. Limousines licensed as private hire vehicles must carry a safety hammer capable of being used to break the window glass of the vehicle. The hammer must be securely located within the driver's compartment.

B 3. Driver and Operator Licensing Requirements

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

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

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

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

B 4. Vehicle Testing Stations

- B 4.1. Limousines licensed as private hire vehicles will be required to provide six-monthly MOT certificates from a VOSA goods vehicle testing station, or alternatively a VOSA approved class 5 testing station, that has appropriate facilities.
- B 4.2. If you propose to obtain an MOT from any vehicle testing station other than those listed in Section B4.1 of this Policy, you are advised to contact the Council before submitting the vehicle for an MOT, otherwise you may find that the certificate cannot be accepted.

APPENDIX C

APPLICATION PROCEDURE

C 1. Vehicles

- C 1.1. When presenting an application, the following documents **MUST** accompany the prescribed application form and fee, the application will not be considered complete until all documentation has been received.
- 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) thereof);
 - INSURANCE CERTIFICATE (if a cover note, licence holders will be required to produce further insurance certificates on or before the expiry of the cover note);
 - MOT CERTIFICATE
 - ENGINEER'S REPORT (also known as a compliance certificate)
- C 1.2. The application form, fee and original documentation must be provided to the Council either by post, or by hand delivery to the offices of 'Gateway' 8 Grosvenor Road, Royal Tunbridge Wells, Kent TN1 2AB.
- C 1.3. Appointments with a Licensing Officer for a knowledge test will be sent to the applicant and are normally for a Tuesday, Wednesday or Thursday between the hours of 10:00hrs and 16:00hrs.
- C 1.4. Plates and paper licences can be collected from the offices of 'Gateway' 8 Grosvenor Road, Royal Tunbridge Wells, Kent TN1 2AB by prior arrangement. Documentation may be left at 'Gateway' for forwarding to an Officer without an appointment.
- C 1.5. Prior to submitting the vehicle for testing, owners must ensure that the vehicle is in good condition, i.e., mechanically sound, bodywork in a satisfactory condition. The Council's approved garages may ask for the engine and/or full chassis to be steam cleaned if the vehicle is presented in a state whereby the components are too dirty to inspect.

C 2. Drivers

- C 2.1. Applications for hackney carriage/private hire driver's licences may be made at any time of the year.
- C 2.2. Applications are to be made on the prescribed application form.
- C 2.3. In support of a completed application form, the applicant must provide the following original documentation;

- A current full driving licence (including paper counterpart sheet if a photocard licence);
- An enhanced disclosure from the CRB and supporting documents (the CRB can be contacted on 0870 90 90 844 or www.crb.gov.uk to obtain the necessary form. Reference number to quote is 20640500007.)
- Two passport-sized photographs (if required)
- The specified fee, which may be refundable in the event of refusal of the licence, less an appropriate administrative charge (see Section 12.3.4 of this Policy.)
- Completed DVLA mandate
- Right to work documents, if applicable

C 2.4. To complete an application, it is the responsibility of the applicant to supply in addition to Section C2.3 above;

- DSA pass certificate
- Completed medical form

C 3. New Driver Knowledge Tests

C 3.1. Introduction

C 3.1.1. In order to maintain the high standards that the Council expects of its licensed hackney carriage drivers operating within the District, all potential new drivers are required to pass a knowledge test.

C 3.1.2. The Council acknowledges that the same level of instant geographical knowledge of the District is not as necessary for those drivers wishing to operate private hire vehicles as those drivers intending to operate hackney carriage vehicles, because all private hire is pre-booked and so the driver has the opportunity to research the destination prior to departure. However this Council issues dual drivers licences and thereby drivers should as good practice has a good working knowledge of the area in which they are licensed.

C 3.2. Test Composition

C 3.2.1. Applicants will be tested on their knowledge of the area: and

- Expected to take the shortest practicable route;
- Drive in a safe and comfortable manner in accordance with the Highway code;
- If applicable state the maximum fare that could be charged for that journey;
- The Highway Code;
- The Councils Hackney Carriage and Private Hire Licensing Policy; also
- Customer care, including calculation of change for a given fare, and basic conversation.

C 3.2.2. A minimum of ninety minutes should be allowed for the test.

C 3.3. Driver Test Failure

- C 3.3.1. Applicants who fail to achieve a pass in Section C3.2.1 above, shall fail the Driver Knowledge Test and be invited to take a different test on another occasion.
- C 3.3.2. Two attempts to pass the tests are permitted in any one twelve month period. After a second failure, no further tests will be permitted until the period of six months from the date of the first test has elapsed. A fee will be charged for each test attempt thereafter. Please see www.tunbridgewells.gov.uk for current fee.

C 4. The consideration of applications

- C 4.1. Upon receipt of an application form, including the fee and supporting documentation, the Council will start the application process. However, to complete the application process, it is the responsibility of the applicant to supply any additional items as requested by the Council. Where an application is incomplete, it will not be considered until all the requested details or documents are supplied.
- C 4.2. If satisfied that an applicant is a 'fit and proper' person to hold a hackney carriage/private hire drivers licence, having satisfied all the licensing requirements, the application will be granted under delegated powers as provided for by the Council's Scheme of Delegation.
- C 4.3. Applicants who are granted drivers' licences shall be issued with the appropriate paper licence and a driver's badge, which shall remain the property of the Council and must be surrendered when the driver ceases employment as a driver.
- C 4.4. Those who are granted vehicle licences shall be issued with the appropriate paper licence and a licence plate, which shall remain the property of the Council and must be surrendered when the driver ceases employment as a driver.
- C 4.5. Where the Licensing Officer is not satisfied that the applicant should be granted a licence, the matter must be referred to the Licensing Committee. The applicant will be advised of the date, time and venue of the meeting at which the application will be considered.
- C 4.6. In preparation for the meeting with the Licensing Committee, all parties in attendance will receive a report in advance from Democratic Services.
- C 4.7. At the meeting, the Committee shall hear representations from the applicant and may ask any pertinent questions, before deciding upon whether a licence should be granted. The applicant will be told of the outcome at the conclusion of the meeting and this will be confirmed in writing within five (5) working days.
- C 4.8. Unsuccessful applicants will be informed of their right to appeal against the decision to the magistrate's court within twenty one days of receipt of the formal notice of refusal of the application.

C 5. Criminal Conviction Certificate's (Criminal Records Bureau checks)

C 5.1. New Applicants

C 5.1.1. No application for a new hackney carriage/private hire driver's licence will be considered without an enhanced CRB disclosure satisfying the requirements of the Policy.

C 5.2. Applications for Renewal

C 5.2.1. Applications for the renewal of a hackney carriage/private hire driver's licence will be considered in the absence of a current enhanced CRB disclosure providing that:

- the CRB disclosure has been applied for, and
- the applicant has signed a Disclosure of Convictions Declaration that states that the applicant has not received any relevant convictions, cautions or fixed penalty notices.

C 5.2.2. If the subsequent CRB disclosure highlights a relevant conviction, the drivers licence may be suspended or revoked in accordance with this Policy. In addition, the driver may be prosecuted for failing to advise of the relevant conviction and for making a false declaration as part of the application process.

APPENDIX D

POLICY ON THE RELEVANCE OF CONVICTIONS AND CAUTIONS

D 1. General

- D 1.1. Notwithstanding the existence of this Policy, each application will be determined on its own merits. Where it is necessary for the Council to depart substantially from this Policy, clear and compelling reasons will be given for doing so. The purpose of this appendix is to formulate guidelines, consistent with national guidance, which detail the Council's current stance on the relevance of convictions and cautions in respect of applications for the grant of new licences, and the renewal of existing licences, for hackney carriage and private vehicle, driver and operator licences.
- D 1.2. If a court has found an applicant guilty of an offence, that person cannot subsequently claim to the Council that they did not commit the offence. If they seek to do so, their representation will not be considered as this is entirely a matter for the courts. The applicant can, however, offer any mitigating circumstances relating to the offence that they wish the Council to consider.
- D 1.3. For the purpose of this Policy, the acceptance of a fixed penalty notice will be treated as a conviction depending on the individual merits and mitigating circumstances of each case.
- D 1.4. The legislation clearly states that the Council may grant a licence only if it is satisfied that the applicant is a 'fit and proper' person.
- D 1.5. **The onus is on the applicant to demonstrate that they meet this requirement, not on the Council to demonstrate that the applicant does not.**

D 2. 'Fit and proper' person

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

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

- D 2.2. The wording of this test originates from Mr J T H Button BA, Solicitor, MIL, MClarb, a well known and respected solicitor widely acknowledged as an authority in licensing legislation, particularly that of hackney carriages and private hire.
- D 2.3. In order to further assist in understanding the interpretation of this definition, the Council will be considering issues that assist them in determining whether or not applicants are safe drivers with a good driving record, are mentally and physically

fit, are honest, and that they are persons who would not take advantage of their position to abuse, assault or defraud members of the public.

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

➤ **Honest and trustworthiness**

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

➤ **Professionalism**

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

➤ **Good and safe driving ability**

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

D 3. Protecting the Public

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

D 4. History

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

D 5. Driving Offences

- D 5.1. Hackney carriage and private hire drivers should provide a professional service to the public and must be aware of the safety of passengers and other road users at all times. Any traffic offence shows a lack of responsibility whilst driving either in terms of vehicle maintenance or the level of driving standards.
- D 5.2. Convictions or cautions for traffic offences will not automatically preclude any applicant from obtaining a licence, however, the number, nature and frequency of such offences will be considered. In some circumstances it may be appropriate to issue a licence together with a written warning as to future driving standards detailing the likely effect of further offences. Where there is a significant history of driving offences, an application is likely to be refused.
 - D 5.2.1. In cases of six penalty points or less on an applicant's DVLA driving licence, an application will be granted.
 - D 5.2.2. A licence granted under these circumstances is likely to be issued together with a verbal warning as to future driving standards detailing the likely effect of further offences.
- D 5.3. Seven or more penalty points on a current DVLA driving licence
 - D 5.3.1. In cases of seven penalty points or more on an applicant's DVLA driving licence, an application will be referred to the Licensing Committee for decision.
- D 5.4. Major traffic offences
 - D 5.4.1. For the purposes of this section, major traffic offences includes, but is not limited to, dangerous driving, driving whilst disqualified, failure to stop after an accident, driving with no/invalid insurance, careless driving, and driving a vehicle with mechanical defectives (such as brakes, steering, tyres, etc.)
 - D 5.4.2. The driving offences of causing death by dangerous or careless driving, due to their nature, will be considered by the Council to be violent offences and should be considered in conjunction with the section of this appendix relating to violent offences.
 - D 5.4.3. If the applicant has been convicted of more than one major traffic offence then a licence application will normally be refused until the applicant has completed a period of at least two years free from conviction. Where the combination of offences are considered to be of increased risk to the public, a period longer than two years may be substituted by the Council dependant of the extent of the risk to the public.
- D 5.5. "Totting Up" under section 35 of the Road Traffic Offenders Act 1988

- D 5.5.1. Where an applicant has been disqualified from driving by the courts under the “totting up” procedure, the Council will normally refuse an application until there has been a period of twelve months free of relevant convictions.
- D 5.5.2. If the applicant has demonstrated to the court “exceptional hardship” and avoided a driving disqualification, applications will still normally be refused until there has been a period of twelve months free of relevant convictions. The Council believe that the risk to the public is sufficient to maintain this consistent stance.
- D 5.6. Motor Insurance Offences
- D 5.6.1. An isolated motor insurance offence will not automatically preclude an application form being granted, however the Council deem such offences to be serious given the risk to the public.
- D 5.6.2. More than one conviction for motor insurance offences will be considered to raise serious doubts as to an applicant’s suitability to hold a hackney carriage/private hire driver’s licence. Ordinarily in these circumstances, an application be refused until such time as a period of three years has elapsed since the restoration of the applicant’s DVLA driving licence.
- D 5.7. Failure to Declare Motoring Offences
- D 5.7.1. Where an applicant fails to disclose motoring offences on their application form, even if they have been declared on previous applications or are spent, the Council will normally deal with this by way of issuing of penalty points.
- D 5.7.2. If, however, the Council determines that there was a premeditated intention to deceive, the matter will be considered as an offence of dishonesty and dealt with in accordance with that section of this Policy.
- D 6. Drunkenness**
- D 6.1. Separate consideration will be given to convictions for drunkenness whilst in charge of a vehicle as opposed to drunkenness whilst not in charge of a vehicle due to the differing risk to the public.
- D 6.2. In Charge of a Motor Vehicle
- D 6.2.1. The Council considers driving or being in charge of a vehicle whilst under the influence of alcohol as a serious offence causing a high element of risk to the public.
- D 6.2.2. An isolated incident will not automatically preclude an application from being granted. A single conviction for any alcohol-related driving offence will normally preclude an application from being granted for a period of five years from the restoration of the DVLA driving licence.

D 6.2.3. If there is a suggestion that the applicant is an alcoholic, a special medical examination is likely to be required before the application is considered. If the applicant is confirmed as an alcoholic, a period of three years must elapse after treatment is complete before an application can be considered.

D 6.2.4. More than one conviction for any alcohol-related driving offence represents an unacceptable risk to the public and an application will normally be refused.

D 6.3. Not in Charge of a Motor Vehicle

D 6.3.1. An isolated conviction for drunkenness not associated with driving or being in charge of a motor vehicle will not automatically preclude an application.

D 6.3.2. Where there is an isolated conviction for disorder and/or drunkenness, a licence will normally be granted together with a verbal warning as to future driving standards detailing the likely effect of further offences.

D 6.3.3. More than two convictions for disorder and/or drunkenness will normally lead to refusal of an application until such time as a period of three years free of convictions has elapsed.

D 7. Drug Offences

D 7.1. The Council considers all offences related to controlled substances as a serious risk to the public.

D 7.2. An applicant with a conviction of any Class A or Class B drug related offence, including supplying or trafficking, will be required to show a period of five to ten years free of convictions before an application is considered. The length of period over and above the minimum five years will be dependent on factors such as the nature and severity of the offence, and the length of any custodial sentence.

D 7.3. An applicant with a conviction of any Class C drug related offence will be required to show a period of at least three years free of conviction

D 7.4. In all cases, where an applicant has been medically classed as an addict, an application will be precluded until such time as a period of five years has elapsed since the completion of a recognised detoxification programme.

D 8. Sexual or Indecency Offences

D 8.1. As hackney carriage and private hire drivers often carry unaccompanied and/or vulnerable people, any applicant with a conviction or caution for any sexual or indecency offence will normally be refused a licence until such time as they have been free of convictions for a period of seven to twelve years. The length of period over and above the minimum seven years will be dependent on factors such as the nature and severity of the offence, and the length of any custodial sentence.

D 8.2. Existing licence holders should be aware that if the Council receives notification from the police that the driver is being investigated for a sexual or indecency offence, their licence will normally be suspended with immediate effect pending the outcome of the investigation.

D 8.3. Major Sexual or Indecency Offences

D 8.3.1. For the purpose of the Policy, the following offences will be considered as major sexual or indecency offences with the highest of risk to the public.

- rape;
- indecent assault;
- gross indecency;
- possession of child pornography;
- buggery; or
- indecent assault of a child

D 8.3.2. Any applicant with a conviction for a major sexual or indecency offence will be considered an unacceptable risk to the public and any application will be refused, save for exceptional circumstances

D 9. Violent Offences

D 9.1. The Council considers all violence related offences as a serious risk to the public.

D 9.2. An application will normally be refused where the applicant has been convicted of murder, manslaughter or causing death by careless or dangerous driving.

D 9.3. An application will normally be refused where the applicant has a conviction for a violent offence, other than those listed above (D7.2), unless there has been a period of five to ten years free of convictions. The length of period over and above the minimum five years will be dependent on factors such as the nature and severity of the offence, and the length of any custodial sentence.

D 9.4. Offences of criminal damage and public order will be treated as violent offences for the purposes of this Policy.

D 9.5. Whilst an isolated conviction for a violent offence, other than those listed above (D7.2), will not normally permanently preclude an application, the Council will have grave concern for public safety if an applicant has committed multiple violent offences.

D 9.6. Multiple Offences

D 9.6.1. In all cases where an applicant has more than two convictions for violent offences, as application will normally be refused. In the case of an existing driver, their licence will normally be revoked.

D 9.7. Possession of a Weapon

- D 9.7.1. If an applicant has been convicted of an offence involving the possession of a weapon, or any other weapon-related offence, the Council considers this to be an unacceptable risk to members of the public and the application will normally be refused. In the case of an existing driver, their licence will normally be revoked.

D 10. Dishonesty

- D 10.1. Hackney carriage and private hire drivers are expected to be persons of trust. It is comparatively easy for dishonest drivers to defraud the public, for example, by demanding more than the legal fare or giving incorrect change. Overseas visitors can be confused by the change in currency and become vulnerable to an unscrupulous driver. Equally, any customers can be defrauded by a driver taking them by any other than the shortest route or by them retaining lost property left in the vehicle.
- D 10.2. As members of the public entrust themselves to the care of licensed drivers, the council consider offences involving dishonesty as a serious risk to public safety.
- D 10.3. An applicant that has been convicted of an offence related to dishonesty will normally be refused a licence until such time as they have been free of convictions for a period of five to ten years. The length of period over and above the minimum five years will be dependent of factors such as the nature and severity of the offence, and the length of any custodial sentence.

D 11. Other Offences

- D 11.1. If the applicant has declared any other offences not specifically covered by this policy on the relevance of convictions, the application may be referred to the Licensing Committee for determination in line with the Policy Objectives.
- D 11.2. Receipt of any of the following may result in the licence holder being required to provide annual CRB disclosures until a period of five years has expired.
- criminal conviction;
 - final warning letter from the Council;
 - period of suspension of an existing licence.

D 12. Summary

- D 12.1. Except in the most serious of circumstances, an applicant having a previous or current conviction will not normally be permanently precluded from obtaining a hackney carriage/private hire driver's licence.
- D 12.2. The Council believe that a person convicted of an offence, who is required to wait for the expiry of a rehabilitation period prior to their application being considered, is more likely to value their licence and ensure that future convictions are avoided.

- D 12.3. The Council consider that there are, however, certain offences that are so serious in nature or frequency that an applicant should be precluded from obtaining or retaining a licence. The Council's over-riding policy objective is to safeguard the safety of the general public by ensuring that all licensed drivers are safe, competent, and are able to maintain their vehicles to an acceptable standard.
- D 12.4. By producing clear and transparent guidelines on the relevance of convictions, the Council is seeking to maintain the high standard of hackney carriage and private hire drivers, proprietors and operators within Tunbridge Wells.
- D 12.5. Existing Licence Holders
- D 12.5.1. Any existing licence holder convicted of an offence during the period of their current licence will be subject to the above policy relating to the relevance of convictions. In circumstances where a new applicant would normally have their application refused, an existing licence holder would normally have their licence revoked.
- D 12.6. Principles of the Rehabilitation of Offenders Act 1974 ("the 1974 Act")
- D 12.6.1. Under the 1974 Act, criminal convictions can become spent after a certain period of time, and once spent, for many purposes, can be disregarded completely. The possibility of rehabilitation, and the length of time before the rehabilitation occurs, depends on the sentence imposed and not the offence committed. Where a person is sentenced to imprisonment for a period exceeding thirty months, the convictions can never be spent.
- D 12.6.2. Despite the above general principles, the Act does not apply to applicants for hackney carriage and private hire drivers' licences. This is because the driving of these vehicles is listed as a "regulated occupation" in relation to which questions may be asked as to the suitability of individuals to be granted a licence.
- D 12.6.3. Although the 1974 Act does not prevent any judicial authority, including the Council acting as the licensing authority, from taking spent convictions into account, such convictions are only admissible in so far as they are relevant to the issue as to whether the applicant is a 'fit and proper' person to hold a licence.

APPENDIX E

PRIVATE HIRE DRIVER'S LICENCE CONDITIONS

E 1. Conduct of Driver

- E 1.1. The holder of a hackney carriage/private hire driver's licence (hereafter known in this Appendix as the driver) shall comply with the following conditions, which should be read in conjunction with the Code of Good Conduct set in **Appendix F**.
- E 1.2. The driver shall be respectably dressed, clean and tidy in appearance at all times whilst his vehicle is being made available for hire.
- E 1.3. The drivers shall at all times, when acting in accordance with the drivers licence granted to him, wear such badge as supplied by the Council in such position and manner as to be plainly and distinctly visible at all times.
- E 1.4. The driver shall not lend the badge to any other person or cause or permit any other person to wear it.
- E 1.5. On termination or surrender of a drivers' licence, the driver shall return the badge to the Council immediately.
- E 1.6. The driver shall behave in a civil, polite and orderly manner and shall take all reasonable precautions to ensure the safety of persons conveyed in, or entering or alighting from, the vehicle.
- E 1.7. The driver shall not wilfully or negligently cause or permit the vehicle licence plate to be concealed from public view, or allow the licence plate to be so defaced as to make any figure or information illegible.
- E 1.8. The driver who has agreed to, or has been hired to, be in attendance with the vehicle at an appointed time and place shall, unless delayed or prevented by some sufficient cause, punctually attend with such vehicle at such appointed time and place.
- E 1.9. The driver, when hired to drive to a particular destination, shall proceed to that destination by either the shortest available route, or the believed cheapest route considering all known factors such as roadworks, delays, etc.
- E 1.10. The driver shall not convey, or permit to be conveyed, in such vehicle any greater number of persons than the number of persons specified on the Vehicle Licence.
- E 1.11. The driver shall convey a reasonable amount of luggage and afford reasonable assistance in loading and unloading luggage.

- E 1.12. The driver must not solicit, by calling out or otherwise importune any person to hire or be carried for hire and must not accept an offer for the hire of the vehicle except where that is first communicated to the driver by telephone.
- E 1.13. The vehicle shall be presented in a clean and tidy condition for each journey.
- E 1.14. The private hire vehicle must only be driven with the consent of the proprietor of the vehicle.
- E 1.15. The driver must comply with any hirer's request not to smoke, drink or eat in the vehicle, or play any radio or sound equipment, which is not connected with the operation of the business.
- E 1.16. The driver must ensure that the noise emitted from any sound equipment in the vehicle does not cause annoyance to any person, whether inside or outside the vehicle.
- E 1.17. The driver shall not operate the horn as a means of signalling that the vehicle has arrived.
- E 1.18. The driver must not cause or permit the vehicle to stand on a public road, on a hackney carriage rank or bay, or in a public place so as to suggest that it is plying for, or available for hire.
- E 1.19. Drivers must not use a mobile phone whilst driving unless it is designed for hands-free operation.

E 2. Fitness of Driver

- E 2.1. The driver of a vehicle must at any time, or at such intervals as the Council may reasonably require, produce a certificate issued by a Registered Medical Practitioner to the effect that he is, or continues to be, physically fit to be a driver.
- E 2.2. Whether or not such a Certificate is produced, the driver must, if required by the Council at any time, undergo a medical examination by a Registered Medical Practitioner selected by the Council. This will be at the applicants own expense.
- E 2.3. The driver must cease driving any private hire vehicle and contact the Council immediately if they know of any medical condition which may affect their:
 - driving ability or
 - the health and safety of themselves or any passengers.

E 3. Fares and Journeys

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

- E 3.2. The driver shall, if requested by the hirer, provide him with a written receipt for the fare paid.
- E 3.3. If the private hire vehicle is fitted with a taxi-meter, then the driver of a private hire must:
- unless the hirer expresses at the commencement of the journey his desire to engage by time, bring the meter into operation at the commencement of the journey, and
 - bring the machinery of the taxi-meter into action by moving the said key, flag or other device, so that the work 'HIRED' is legible on the face of the taxi-meter before beginning a journey and keep the machinery of the taxi-meter in action until the termination of the hiring.
 - when standing, keep the key, flag or other device fitted for that purpose locked in the position in which no fare is recorded on the face of the meter.
 - Cause the dial of the taxi-meter to be kept properly illuminated throughout any part of a hiring which is during the hours of darkness as defined for the purpose of the Road Traffic Act 1972, and also at any other time at the request of the hirer.
 - not demand for any hirer of a private hire vehicle a fare in excess of any previously agreed for that hiring between the hirer and the operator or, if the vehicle is fitted with a fare meter, the fare shown on the face of the taxi-meter.
- E 3.4. In the event of a journey commencing in but ending outside the District of Tunbridge Wells there may be charged, for the journey, such fare or rate (if any) as was agreed before the hiring was affected. If no such agreement was made then the fare to be charged should be no greater than that determined by the taxi-meter.
- E 4. Duties of Licence Holder**
- E 4.1. Any change affecting this licence must be notified to the Council, Notification should be as soon as reasonably practicable and in any event, no later than seven days after the change was effected.
- E 4.2. The private hire driver's licence must be made available for inspection, on request, by any Authorised Officer of the Council or any Police Officer.
- E 4.3. The driver must notify the Council, within seven days of starting or terminating employment, as to the name and address of the proprietor concerned and the date when the employment either started or ended.
- E 4.4. The private hire driver's licence must be presented to the proprietor concerned at the beginning of an employment.
- E 4.5. All licences, badges and plates remain the property of the Council at all times. They must be returned forthwith when employment as a licensed driver

permanently ceases, the licence expires and is not renewed, or where the licence is suspended or revoked.

E 4.6. The driver must notify the Council within a period of seven days of:

- any conviction for an offence, or
- any receipt of a fixed penalty imposed on him

whilst the licence is in force.

E 5. Lost Property

E 5.1. A driver of a private hire vehicle shall diligently search the vehicle periodically for any property which may have been accidentally left therein. Any property found should be carried as soon as possible and in any event within forty-eight hours, to the nearest Police Station and leave it in the custody of an authorised officer after obtaining a receipt.

E 6. Accident Reporting

E 6.1. In accordance with Section 50(3) of the Local Government (Miscellaneous Provisions) Act 1976, any accident to a private hire vehicle causing damage materially affecting:

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

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

E 7. The Carriage of Animals

E 7.1. A driver must not carry in a private hire vehicle any animal whilst it is being used as a private hire vehicle, save for exemptions detailed in Sections E7.2 and E7.3 of the Policy.

E 7.2. Animals in the custody of passengers may be carried, at the driver's discretion, provided they are restrained in a safe manner.

E 7.3. A driver must carry assistance dogs when required. Assistance dogs include guide dogs for the blind or partially sighted, hearing dogs for the hard of hearing, and other assistance dogs which assist disabled people with a physical impairment.

E 7.4. Any driver with a medical condition, which may be exacerbated by dogs, may apply for exemption from this condition. On production of suitable medical evidence, a certificate of exemption will be issued which must be carried in the vehicle at all times. Unless the certificate of exemption is available in the vehicle, the exemption will not apply.

E 8. Wheelchair Accessible Vehicles

E 8.1. All drivers of wheelchair accessible vehicles must:

- be fully conversant with the correct method of operation of all ramps, lifts and wheelchair restraints fitted to the vehicle.
- Before any movements of the vehicle takes place, ensure that all wheelchairs are firmly secured to the vehicle using an approved restraining system and the brakes of the wheelchair have been applied.
- Ensure that any wheelchairs, equipment and passengers are carried in such a manner that no danger is likely to be caused to those passengers, or to anyone else, in accordance with the regulations detailed in Section 100 of the Road Vehicles (Construction and Use) Regulations 1986

APPENDIX F

CODE OF GOOD CONDUCT FOR LICENSED DRIVERS

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

F 1. Responsibility to the Trade

- F 1.1. Licence holders shall endeavour to promote the image of the hackney carriage and private hire trade by:
- complying with this Code of Good Conduct;
 - complying with the Council's Hackney Carriage and Private Hire Licensing Policy;
 - behaving in a civil, orderly and responsible manner at all times.

F 2. Responsibility to the Public

- F 2.1. Licence holders shall:
- maintain their vehicles in a safe and satisfactory condition at all times;
 - keep their vehicles clean suitable for hire to the public at all times;
 - attend punctually when undertaking pre-booked hiring;
 - assist, where necessary, passenger's ingress to and egress from vehicles;
 - offer passengers reasonable assistance with luggage;
 - behave in a professional and respectful manner at all times.

F 3. Responsibility to Residents

- F 3.1. To avoid nuisance to residents when picking up or waiting for a fare, a driver shall:
- not sound the vehicles' horn illegally;
 - keep the volume of all audio equipment and two way radios to a minimum;
 - switch off the engine if required to wait;
 - take whatever additional action is necessary to avoid disturbance to residents in the neighbourhood.
 - at hackney carriage ranks/bays in addition to the requirements above:
 - rank/queue in an orderly manner and proceed along the rank/bay in order and promptly;
 - remain in the vehicle.
 - at private hire offices:
 - not allow volume of all audio equipment and two-way radios to unduly disturb residents of the neighbourhood;

- take wherever additional action is necessary to avoid disturbance to residents of the neighbourhood, which might arise from the conduct of their business.

F 4. General

F 4.1. Drivers shall:

- pay attention to personal hygiene and dress, so as to present a professional image to the public;
- be polite, helpful and fair to passengers;
- drive with care and due consideration for other road users and pedestrians and, in particular, shall not use a hand held mobile phone whilst driving;
- obey all Traffic Regulation Orders and directions at all times;
- not smoke at any time when inside the vehicle;
- not consume alcohol* at any time whilst, driving or being in charge of a hackney carriage or private hire vehicle;
- not drive while having misused legal drugs;
- not drive while having used illegal drugs*;
- fulfil their responsibility to ensure compliance with legislation regarding the length of working hours;
- not eat in the vehicle in the presence of customers.

F 5. Disciplinary Hearings

F 5.1. Drivers should be aware of the powers the Council has to take action, by way of suspension, revocation or refusal to renew a driver's licence where:

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

F 5.2. Details of the workings of the disciplinary hearings are set out in Section J9 of this Policy.

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

APPENDIX G

DRESS CODE FOR LICENSED DRIVERS

G 1. Objectives

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

G 2. Unacceptable Standards of Dress within this Code

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

G 3. General

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

APPENDIX H

PRIVATE HIRE OPERATOR'S LICENCE CONDITIONS

H 1. Standards of Service

H 1.1. The Operator shall:

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

H 2. Records

H 2.1. Records, which must be kept by private hire operators under the Local Government (Miscellaneous Provisions) Act 1976, shall be kept in a non-erasable form in a suitable log or book, the pages of which are numbered consecutively.

H 2.2. Bookings

H 2.2.1. Prior to each journey, the operator shall enter the following particulars of every booking of a private hire vehicle accepted, pursuant to Section 56(2) of the Local Government (Miscellaneous Provisions) Act 1976, namely the:

- date of the booking;
- name and address of the hirer
- time of pick-up
- address of the point of pick-up
- destination
- time at which a driver was allocated to the booking
- plate number (or other identification) of the vehicle allocated
- fare (if agreed between the operator and hirer at the time of booking)

H 2.3. Vehicles

H 2.3.1. The operator shall keep records of the particulars of all private hire vehicles operated by him, pursuant to Section 56(3) of the Local Government (Miscellaneous Provisions) Act 1976, namely the:

- type, make model, colour and engine size of vehicles;
- year when the vehicle was first licensed for private hire;
- vehicle registration numbers;
- number of seats for passengers;
- owners of the vehicles;
- insurance details of vehicles;
- method of charging, i.e. whether or not a meter is fitted;
- private hire vehicle plate numbers;

H 2.4. Drivers

H 2.4.1. The operator shall keep records of the particulars of all drivers of private hire vehicles operated by him, pursuant to Section 56(3) of the Local Government (Miscellaneous) Act 1976, namely details:

- as to the drivers of the vehicles, and their call signs;
- of when any new driver begins service;
- of when any driver's service ceases;
- of any change of address of any driver in service;
- of any illness, disability or condition which may affect the driver's ability to safely carry out his duties, (if the operator becomes aware of any such condition);
- of expiry dates of driver's badges and vehicle licences

H 2.4.2. All records maintained by the operator shall be kept for at least twelve months after entry and shall be produced for inspection, on request, by any Authorised Officer of the Council or any Police Officer.

H 3. Complaints

H 3.1. The operator shall notify the Council in writing of any complaints concerning a contract for hire arising from his business that he feels prudent to do so, for example for his own protection against frivolous or vexatious complaints. Such notification must include the action taken, or proposed, as a result of the complaint.

H 4. Change of Details

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

H 5. Disclosure of Convictions

H 5.1. The operator shall, within seven days of conviction, notify the Council in writing of any conviction, or fixed penalty imposed on him during the period of duration of his operators' licence.

- H 5.2. If an operator is a company or partnership, this requirement shall equally apply if any of the directors or partners receives a conviction or fixed penalty.

H 6. Insurance

- H 6.1. The operator shall ensure that a certificate of motor insurance covers every private hire vehicle operated by him under the operator's licence, which is compliant with the Road Traffic Act 1988 as regards the carriage of passengers for hire or reward.
- H 6.2. If the private hire operator has premises to which the public have access, in connection with the hiring of vehicles, he shall ensure that there is public liability insurance in force, which indemnifies him against any claim for loss, damage or personal injury by any person using those premises.

H 7. Private Hire Driver's Licences

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

H 8. Display of Terms and Conditions

- H 8.1. The operator shall, at all times, keep a copy of these conditions at any premises used by him for private hire business and shall make the same available for inspection by fare-paying passengers.

H 9. Inspection of Licence

- H 9.1. The private hire operator's licence shall be available for inspection on request by any Authorised Officer or any Police Officer.

APPENDIX I

HACKNEY CARRIAGE AND PRIVATE HIRE ENFORCEMENT POLICY AND PRACTICE

I 1. Enforcement Policy Statement

- I 1.1. It is the policy of The Council to ensure that all driver, vehicles and operators are licensed correctly and carry out their trade in accordance with both the relevant legislation and the Council's Hackney Carriage and Private Hire Licensing Policy. All enforcement action is carried out in compliance with the Tunbridge Wells Borough Council Enforcement and Prosecution Policy, which is available on the Council's website.
- I 1.2. Primarily, all enforcement action will be based upon the seriousness of the breach and the possible consequences arising from it. Enforcement action will not normally, therefore, constitute a punitive response to minor technical contravention of legislation. Repeated minor technical contraventions, however, will be subject to appropriate action.
- I 1.3. Specific advice on the issue of licences and enforcement action is contained elsewhere in the Council's Hackney Carriage and Private Hire Licensing Policy, which sets out the general principals to be followed in taking enforcement decisions.
- I 1.4. Authorised officers, when making enforcement decisions, will adhere to the requirements and guidance contained within this policy. Any departure from the policy must be capable of justification, following careful consideration in exceptional circumstances, and authorised by the Licensing Committee.
- I 1.5. Authorised officers must be fully conversant with the requirements of the Policy and appropriately trained as necessary.
- I 1.6. Officers will be authorised by the Head of Environment and Street Scene to take enforcement actions relevant and appropriate to their status. All enforcement action will be undertaken by an Authorised Officer of the appropriate status.

I 2. Enforcement Options

- I 2.1. The Council consider consistency of approach in all enforcement action relating to hackney carriage and private hire licensing to be essential. To achieve and maintain consistency, it is vital that the requirements of this Policy are always considered and read in conjunction with Tunbridge Wells Borough Council Enforcement and Prosecution Policy
- I 2.2. Enforcement action must always be consistent, proportionate and reasonable whilst ensuring that the public receive adequate protection. Determination of enforcement action may consider, but will not be limited to, the following:

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

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

I 2.4. Driver, Vehicle, or Operator Licence Applications

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

I 2.5. Enforcement action

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

I 2.6. This policy document provides detailed guidance applicable to the various options for enforcement action.

I 3. Informal Action

I 3.1. Informal action to secure compliance with legislation includes offering advice, verbal and written warnings and requests for action and the use of letters in accordance with the Tunbridge Wells Borough Council Enforcement and Prosecution Policy.

I 3.2. Such informal enforcement action may be appropriate in, but not limited to, any of the following circumstances:

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

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

I 4. Appearance before the Licensing Committee/Head of Environment and Street Scene

- I 4.1. An offending individual or company may be required to attend a meeting with the Head of Environment and Street Scene to answer allegations of breaches of relevant legislation, byelaws or requirements of this Policy.
- I 4.2. Current licence holders who report convictions or breach relevant legislation during the period of their licence may be required to attend a meeting with the Licensing Committee.
- I 4.3. The Licensing Committee may decide to take one or more of the following actions:
- no action;
 - a written warning;
 - require the production of driving licences or others specified documentation at the Council Offices;
 - suspend a licence;
 - revoke a licence;
 - authorise prosecution action;
 - other appropriate action as deemed necessary.

I 5. Section 68 Notices (Stop Notices)

- I 5.1. An Authorised Officer of the Council, or a Police Officer, may serve notice in writing for a hackney carriage or private hire vehicle, to be examined at one of the Council's appointed garages at a time specified in the notice. This notice must only be served having had due regard to the condition of the vehicle or with reasonable grounds to suspect the accuracy of the taxi-meter. The test for the taxi-meter will be carried out by the Authorised Officer of the Council at a time to be determined with the Authorised Officer.
- I 5.2. An Authorised Officer of the Council or a Police Officer may, in addition to requiring the vehicle to be tested, suspend the vehicle licence until such time as he is satisfied with the condition of the hackney carriage or private hire vehicle.
- I 5.3. This action will only be taken when the Officer has reasonable grounds to suspect that the condition of the vehicle or taxi-meter does not meet the requirements of the Policy or any appropriate road traffic legislation.
- I 5.4. The suspension notice will remain in place until such time as the Officer issuing the notice is satisfied that the grounds for suspension have been satisfactorily resolved. Written confirmation of the lifting of the suspension notice will be given. Until such time as written confirmation has been received, the suspension will remain active.

- I 5.5. If the Authorised Officer of the Council or the Police Officer who issued the suspension notice is not satisfied that the appropriate action has been taken to allow the suspension notice to be withdrawn within a period of two months from date of issue, the vehicle licence shall be deemed to be revoked.

I 6. Appeals

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

I 7. Prosecution

- I 7.1. The decision to prosecute is a very significant one as it may impact on the licence holder's future employability. Generally, prosecution will be restricted to those circumstances where the law is blatantly disregarded, legitimate requirements of the Council are not complied with and / or there is serious risk to the public.
- I 7.2. The circumstances which may warrant prosecution may include, but will not be restricted to, one of more of the following;
- blatant disregard for legislation or this Policy, particularly where the economic benefits of breaking the law are substantial and provide significant advantage over those licence holders who are law-abiding;
 - when there appears to have been blatant and/or reckless disregard for the safety of passengers or other road users;
 - where there have been repeated breaches of legislation or requirements of this Policy;
 - where a particular type of offence is prevalent;
 - where a particular contravention has caused serious public concern.
- I 7.3. When circumstances have been identified which may warrant a prosecution, all relevant evidence and information must be considered to enable a consistent, proportionate and reasonable decision to be reached.
- I 7.4. In addition to being satisfied that there is sufficient evidence to provide a realistic prospect of conviction, it must be established that it is in the public's interest to prosecute. The Code for Crown Prosecutors (January 1992), issued by the Crown Prosecution Services, provides guidance which will be considered, including relevant public interest criteria.
- I 7.5. A decision on whether to prosecute may consider, but not be limited to, the following:
- the seriousness of the alleged offence;

- the risk of harm to the public;
- identifiable victims;
- failure to comply with a statutory notice;
- disregard of safety for financial reward;
- the previous history of the party concerned;
- repeated offences leading to a history of similar offences;
- failure to respond positively to previous enforcement action;
- the ability and willingness of any important witnesses to co-operate;
- the willingness of the party to prevent a recurrence of the problem;
- the probable public benefit of a prosecution and the importance of the case, for example, establishing legal precedent;
- whether other action, such as issuing a simple caution in accordance with the Home Office Circular 30/2005, would be more appropriate or effective.

I 8. Simple Cautions

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

I 8.2. The purpose of a caution are to:

- deal quickly and simply with less serious offences;
- divert less serious offences away from the Courts;
- reduce the chances of repeat offences.

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

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

I 8.4. If there is insufficient evidence to consider taking a prosecution then, by implication, the criteria for the use of a caution is not satisfied. Further more, a caution should not be used where the alleged offender does not make it clear and reliable admission of the offence. (It should be noted that there is not a legal obligation for any person to accept the offer of a caution and no pressure should be applied to the person to do so).

I 8.5. Where a person declines the offer of a simple caution, it will be necessary to consider taking alternative enforcement action. Whilst this will probably mean prosecution, this is not necessarily inevitable. The Head of Environment and Street Scene will consider the most appropriate enforcement action intended to be taken.

I 9. Transparency

- I 9.1. Following the receipt of a notification of a conviction, or an adverse vehicle inspection, the licence holder will be informed of the action intended to be taken as soon as reasonably practicable.
- I 9.2. Following the completion of an investigation into a complaint, or any enforcement activity, the licence holder will be informed of the action intended to be taken.
- I 9.3. Any written documentation issued will:
- contain all the information necessary to understand the offence and what needs to be done to rectify it. Where works are required, the period allowed for them to be completed will be indicated;
 - indicate the legislation or section of this Policy contravened and measures which will enable compliance. Where appropriate, it will also indicate alternative means of achieving the same effect; and
 - clearly indicate any recommendations of good practice under an appropriate heading to differentiate them from legal requirements.
- I 9.4. The clear distinction in all enforcement action between legal requirements and good practice recommendations, even if only given as verbal advice, is of considerable importance.

APPENDIX J

PENALTY POINTS SYSTEM

The Penalty Points Scheme will operate as follows:

- J 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 light of any mitigating circumstances the licence holder wishes to be considered.
- J 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.
- J 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.
- J 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 months period will be taken into account.
- J 5. If a licence holder accumulates twelve or more points within a period of two years from the date they are imposed, he will be required to attend a Committee hearing where the appropriate action to be taken in accordance with this Policy.
- J 6. Where a licence holder is brought before the Committee their options available to him 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 issue a written warning to the driver as to his future conduct.
- J 7. Periods 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.
- J 8. More than one accumulation of penalty points in excess of the twelve point threshold in any **three** year period will normally result in the Committee revoking a licence where they believe the person not to be a ‘fit and proper’ person.

- J 9. Once the matter has been dealt with, the points will be removed if a suspension or revocation is imposed. If the “live” period is extended or a written warning given, however, the points will remain “live” for the normal two-year period.
- J 10. If, as a licence holder, you receive a Penalty Points Notice which you feel was not warranted, you may appeal. For example, you may feel that you had a reasonable excuse why the infringement took place, you may disagree that it took place at all or you may not be the person involved. In such a case, write to the Senior Licensing Officer within 21 days of the date of receipt of the points stating why you consider 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.
- J 11. A licence holder will retain the right to be represented at any meeting either legally or otherwise, and to state any mitigating circumstances he deems necessary.
- J 12. Even though penalty points have been issued by an Authorised Officer of the Council, if it is subsequently found that the licence holder has previously been issued with penalty points, or has been formally cautioned, for similar offences, the Council reserve the right to cancel the penalty points and deal with the matter in accordance with the Tunbridge Wells Borough Council Enforcement and Prosecution Policy.
- J 13. Licensees retain the normal rights of appeal to the Courts when a licence is revoked.
- J 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.
- J 15. The penalty points system will operate without prejudice to the Council’s ability to take other action under appropriate legislation or as provided for by this Policy.

PENALTY POINTS RELATING TO OFFENCES IN RESPECT OF LEGISLATION

Town Police Clauses Act 1847		
Section	Offence	Points
40	Giving false information on a hackney carriage licence application	12
44	Failure to notify change of address of a hackney carriage licence	2
45	Plying for hire without a hackney carriage licence	12
47	Driving a hackney carriage without a hackney carriage driver's licence	12
47	Lending or parting with a hackney carriage driver's licence	4
47	Proprietor employing an unlicensed hackney carriage driver	12
48	Failure of a proprietor to hold a hackney driver's licence	6
52	Failure to display a hackney carriage plate	4
53	Refusal to take a fare without a reasonable excuse	8
54	Charging more than the agreed fare	12
55	Obtaining more than the legal fare (including failure to refund)	12
56	Travelling less than the lawful distance for an agreed fare	12
57	Failure to wait after a deposit to wait has been paid	12
58	Charging more than the legal fare	12
59	Carrying persons other than the hirer without the hirer's consent	8
60	Driving a hackney carriage without the proprietor's consent	6
60	Allowing a person to drive a hackney carriage without the proprietor's consent	4
62	Driver leaving a hackney carriage unattended	2
64	Hackney carriage driver obstructing other hackney carriages	3

Local Government (Miscellaneous Provisions) Act 1976		
Section	Offence	Points
46(1)(a)	Using an unlicensed private hire vehicle	12
46(1)(b)	Driving a private hire vehicle without a private hire drivers' licence	12
46(1)(c)	Proprietor of a private hire vehicle using an unlicensed driver	12
46(1)(d)	Operating a private hire vehicle without a private hire operator's licence	12
46(1)(e)	Operating a vehicle as a private hire vehicle when the vehicle is not licensed as a private hire vehicle.	12
46(1)(e)	Operating a private hire vehicle when the driver is not licensed as a private hire operator.	12
48(6)	Failure to display a private hire vehicle plate	4
49	Failure to notify the transfer of a vehicle	3
50(1)	Failure to present a hackney carriage or private hire vehicle for inspection upon request	8
50(2)	Failure to inform the Council where a hackney carriage or private hire vehicle is stored, if requested	3
50(3)	Failure to report an accident to the Council within seventy two	6

	hours	
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	12
69	Unnecessarily prolonging a journey	12
71	Interfering with a taxi-meter with intent to mislead	12
73(1)(a)	Obstruction of an Authorised Officer of the Council or a Police Officer	12
73(1)(b)	Failure to comply with a requirement of an Authorised Officer or Police Officer	12
73(1)(c)	Failure to give information or assistance to an Authorised Officer or Police Officer	12

Transport Act 1980		
Section	Offence	Points
64(2)(a)	Driving a vehicle with a sign above its roof which consists or includes the word "taxi" or "cab" whether alone or part of another word	10
64(2)(b)	Causes or permits a vehicle to have a sign above its roof which consists of or includes the word "taxi" or "cab" whether alone or part of another word	10

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

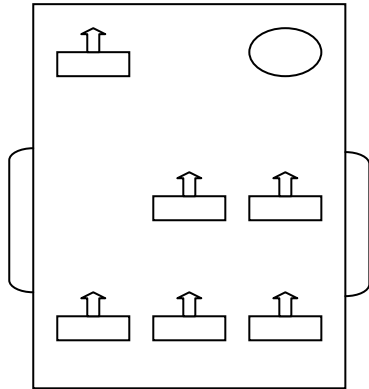
Hackney Carriage and Private Hire Licensing Policy		
Section or Appendix	Breach of policy requirement	Points
	Failure to adhere to the Dress Code for Licensed Drivers	2
	Failure to wear a driver's badge	4
	Failure to adhere to the Code of Good conduct for Licensed Drivers where not mentioned below	4
	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
	Private hire vehicle soliciting for hire or accepting a fare that is not pre-booked	12
	Operating a vehicle that is not clean and tidy	2
	Driving without consent of the proprietor	5
	Drinking or eating in the vehicle whilst carrying passengers	3
	Smoking in a licensed vehicle at any time	4
	Cause excessive noise from any radio or sound-reproducing equipment	2
	Operating the horn as a means of signalling that a vehicle has arrived	3
	Allowing a private hire vehicle to stand in such a position as to suggest that it is plying for hire or using a hackney carriage stand	6
	Using a non-hands free mobile telephone whilst driving	4
	Failure to advise of a relevant medical condition	8
	Failure to provide a receipt for a fare when requested	2
	Failure to operate the meter from the commencement of the	12

	journey and/or charging more than the fixed charge for hire of hackney carriages	
	Failure to notify the Council of any amendment to the details of a licence within fourteen days	3
	Failure to produce a licence upon request	4
	Failure to notify within seven days of starting or terminating employment, the name and address of the proprietor and term of employment	3
	Failure to show a private hire driver's licence to the private hire operator at the commencement of employment	2
	Failure to surrender a driver's licence, badge or plate upon request	6
	Failure of a licence holder to disclose convictions within seven days of conviction	8
	Failure to take found property to the Police within forty eight hours of finding	3
	Failure to report an accident within seventy two hours	3
	Carrying an animal other than one belonging to the passenger(s)	2
	Carrying an animal not safely restrained	3
	Failure to comply with the requirements for the safe carrying of a wheelchair	6
	Operating a vehicle that does not comply with the Council's licensing policy where such a breach of policy requirements is not otherwise specified herein	6
	Failure to carry an approved fire extinguisher	3
	Failure to carry an approved first aid kit	3
	Operating a vehicle which is not maintained in a clean and/or safe condition internally or externally	3
	Modifying a vehicle without the consent of the Council	3
	Failure to display 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 has not been approved by the Council	4
	Carrying radio equipment or similar devices not in accordance with Council requirements	2
	Taxi-meter does not conform to the Council's requirements	6
	Trailer does not comply with the Council's requirements	3
	Operating or driving a vehicle which does not comply with the Council's Policy requirements	6
	Driving with no insurance or inadequate insurance for the vehicle	12
	Allowing a vehicle to be used for hire by a person who does not hold a current driver's licence	8

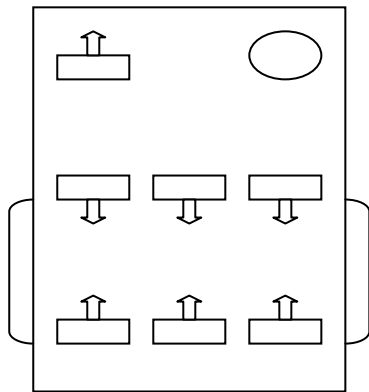
	Operating a vehicle which does not comply with the Council's requirements in relation to tinted windows	4
	Permitting the vehicle to be used for any illegal or immoral purposes	12
	Failure of a private hire operator to provide a prompt, efficient and reliable service	3
	Failure of a private hire operator 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 drivers employed by him has a private hire licence and badge	4
	Failure of a private hire operator to keep a copy of the Council's Hackney Carriage and Private Hire Licensing Policy to be made available for inspections by passengers upon request	4
	Any other contravention of the Policy not covered above	2-12

APPENDIX K

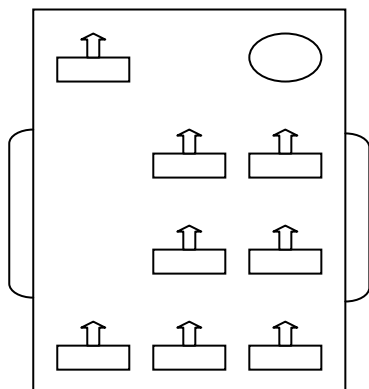
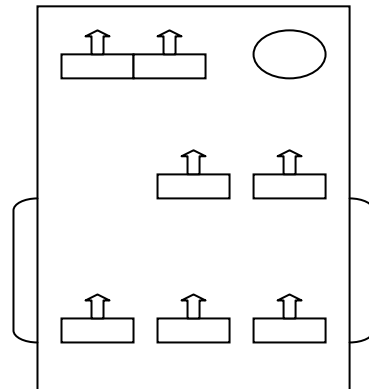
SEATING CONFIGURATIONS IN MULTI-PASSENGER VEHICLES



Six-seater vehicle




Seven-seater vehicle



Eight-seater vehicle

 Driver

 Passenger Seat

 Passenger facing

 Door

APPENDIX L

SPECIAL EVENT POLICY

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

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

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

DEFINITION

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

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

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

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

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

APPENDIX M

EXEMPTION CONSIDERATIONS

- a) The vehicle to be exempted is of a high quality both in terms of brand and condition.
- b) Vehicles will be larger than the Ford Mondeo class vehicles and will normally be the accepted luxury brands such as Mercedes Benz, BMW, Jaguar, Rolls Royce, Bentley and Lexus. The highest specification executive type cars from other manufacturers may also be considered. American style stretched vehicles will not normally qualify for exemption.
- c) Drivers will be members of the British Chauffeurs Guild or other driver's organisation relating to chauffeur type work which has prescribed quality standards and qualifications for membership. Evidence of membership must be provided.
- d) The vehicle must have no visible defects, dents or blemishes to the external bodywork or internal trim.

APPENDIX N

TUNBRIDGE WELLS BOROUGH COUNCIL APPROVED TAXIMETERS

Aquilla AQ2000 T2	LTI/Cygnus Cygnus MR200 Cygnus MR300 Cygnus MR320 Cygnus MR400 LTI 300 LTI 400	Taxitronic Taxitronic TX28 Taxitronic TX30
Halda Halda 12	Lucas Lucas 1145 Lucas 1150/1150.1	HAC Elite/Classic
Sheriff Sheriff Star Sheriff Ultima Sheriff Wayfarer	Mattig Drive 2	Digitax Digitax F1 F2 (was 806)
Rem REM 3 REM 4	Global Sheriff Global Star Global Ultimar	

Viking/Euro

Taximeters in Hackney carriages for which licence renewals are sought after 1 January 2006 must have one of the above make/types fitted or any other that is specifically approved by the Authority.

APPENDIX O

COMPLAINTS BY CUSTOMERS

Where a customer has during the course of a hiring, cause to make a complaint, the driver must give enough information to enable him to identify the driver, vehicle and proprietor in the event that it is their wish to report the matter to the Council.

For this purpose the proprietor must ensure that there is provided within the vehicle a sufficient supply of clean and legibly printed tickets containing the following information and room for the customer to complete the details.

Example form:-

<i>Driver's No:.....</i>
<i>Driver's Name:.....</i>
<i>Hackney Carriage or PHV</i> <i>No:.....</i>
<i>Proprietor :.....</i>
<i>Date.....</i>
<i>Time.....</i>
<i>Keep this Ticket:</i> <i>In case of complaints, Hackney Carriage or Private Hire Vehicle</i> <i>reference should be made to the Senior Licensing Officer,</i> <i>Licensing Department, Tunbridge Wells Borough Council, Town</i> <i>Hall, Royal Tunbridge Wells, Kent TN1 1RS.</i>

APPENDIX P
COMPLAINTS PROCEDURE
CUSTOMER

All hackney carriage drivers and private hire companies in the Borough of Tunbridge Wells are licensed by the Council. It is important to us that every taxi driver is a 'fit and proper' person to be driving members of the public in their vehicle.

If complaints are made against a licensed driver by a customer then we will examine the complaint to establish whether it is justifiable. If it is justified and may indicate that the driver is not a 'fit and proper' person, it will be dealt with in accordance with the objectives of this Policy.

If you have a complaint which you think means that a hackney carriage or private hire driver is not a 'fit and proper' person then please follow the procedure below:

- Phone us on 01892 554034 and a member of our administration team will put you in touch with one of our licensing officers or follow it up with the licensing officers;
- Call into the offices of 'Gateway' 8 Grosvenor Road, Royal Tunbridge Wells, Kent TN1 2AB where a staff member will record your complaint and follow it up with the Licensing Team for you;
- Write to the Licensing department, for the attention of the Senior Licensing Officer;

To progress the complaint it will be helpful if you have the licence number of the vehicle or the name of the driver, details of the incident and the names and contact details of any witnesses.

There are some incidents that may also be against the law. For example racist behaviour or comments and any form of harassment. If you feel that what has happened to you constitutes unlawful discrimination or harassment then you should also report this to the Police.

Our commitment to you:

- We will keep your details confidential where possible;
- We guarantee to tell you what is going on within five working days including the reasons for any delay;
- We aim to give you a full reply in 20 working days
- If we cannot keep to this timetable we will let you know the reason why;
- We guarantee to provide a written explanation of the outcome of your complaint

APPENDIX Q

RE-ALLOCATION OF HACKNEY CARRIAGE PROPRIETORS LICENCE

PROCESS

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

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

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

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

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

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

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

APPENDIX R

REPLACEMENT VEHICLE POLICY

R1. **Private Hire Vehicles**

A licensed private hire **vehicle** can be replaced, swapped or changed with a vehicle that is **less than 6 (six)** years old.

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

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

R2. **Private Hire Vehicle Licences**

Private hire vehicle **licences** may only be transferred to a vehicle that is **less than 6 (six)** years old.

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

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

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

R3. **Hackney Carriage Vehicles**

A proprietor of a licensed hackney carriage vehicle may replace, swap or change their vehicle with another licensed hackney carriage vehicle of any age.

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

R4. **Hackney Carriage Vehicles Licenses**

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

General

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

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

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

Exemption from policies R1, R2, R3, AND R4.

Any person affected by these policies can request an exemption at a hearing before the Licensing Committee.

The Committee on an individual basis, taking into consideration the merits of each case, can determine that an exemption be allowed to these policies.