



*Serving You*

# **HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING POLICY 2026-31**

**Effective from – 1 May 2026**

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## **Executive Summary**

The overarching aim of the local authority taxi and private hire licensing regime is to protect the public by ensuring that all drivers, vehicles and operators are licensed and regulated in accordance with statutory provisions and local policy.

In July 2020, the Government issued [Statutory Taxi and Private Hire Vehicle Standards](#) under the Policing and Crime Act 2017, to which all Licensing Authorities must have regard in carrying out their licensing function. These were further updated in November 2022 and have been adopted.

Whilst the focus of these standards is on protecting children and vulnerable adults, they are intended to benefit all passengers; primarily through ensuring the fitness and propriety of applicants and licence holders.

For the purposes of this policy, including the assessment of applicants and public protection, the Licensing Authority must have regard to the Equality Act 2010.

The Council also recognises that licensing requirements that are unduly stringent could restrict the availability of taxi and private hire services, which have an important role to play in an integrated transport system, and consequently be detrimental to public interest and safety.

It is therefore important to try and ensure that requirements are properly justified by the risks they aim to address, and that they are balanced against potential negative outcomes.

This policy document aims to set out the Council's views, objectives, requirements, procedures and standards in relation to the licensing of taxis and private hire vehicles, their drivers, and private hire operators in Medway with this in mind.

## Definitions

Throughout this document:

- 'The Council' or 'the (licensing or local) authority' means Medway Council.
- 'Vehicle' or 'licensed vehicle' means both a hackney carriage and private hire vehicle.
- 'Driver' or 'licensed driver,' unless otherwise specified, means both a hackney carriage and private hire driver.
- 'Taxi' or 'hackney carriage' means a vehicle licensed under the Town Police Clauses Act 1847 to ply for hire throughout the district controlled by the Council.
- 'Private hire vehicle' or 'PHV' means a vehicle licensed under the Local Government (Miscellaneous Provisions) Act 1976 to carry passengers for hire or reward by prior booking.
- 'Private hire operator' or 'PHOP' or 'operator' means a person, partnership or company who makes provision for the acceptance of private hire bookings to undertake themselves or pass to others to undertake.
- 'The DfT' means the Department for Transport, including previous names under which that department has been known.
- 'The Guidance' or 'the best practice guidance' or 'the DfT guidance' means The Department for Transport – Taxi and private hire vehicle licensing best practice guidance for licensing authorities in England.
- 'The national standards' means the Department for Transport's Statutory Taxi and Private Hire Vehicle Standards published in July 2020 and updated in 2022.
- 'DVLA' means the Driver and Vehicle Licensing Agency.
- 'DVLA driving licence' means a full UK driving licence issued by the DVLA.
- 'The Committee' means the relevant Committee or Cabinet of the Council for determining matters relating to taxi and private hire licensing.
- 'Proprietor' means the owner of the licensed vehicle – this may not necessarily be the driver of the vehicle.
- 'TPCA' or 'the 1847 Act' means the Town Police Clauses Act 1847.
- 'LG(MP)A' or 'the 1976 Act' means the Local Government (Miscellaneous Provisions) Act 1976.
- NB. Medway Council and Gravesham Borough Council provide a shared licensing service, hosted by Gravesham. References to the council website/online form/web page, etc. may therefore mean the Medway Council website or the Gravesham Borough Council website.

## 1. **Introduction**

### 1.1 **Powers and Duties**

- 1.1.1 This Statement of Licensing Policy has been written pursuant to the powers conferred by the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976, as amended, which place a duty on Medway Council to carry out its licensing functions in relation to hackney carriage and private hire vehicles, their drivers, and private hire operators.
- 1.1.2 In undertaking its licensing function, the Council will have regard to this and other relevant Council policies, the national standards and any statutory guidance published, The Regulators Code, the best practice guidance (see 1.2) and relevant legislation including, but not limited to, that referred to in 1.1.1. This list is not exhaustive.

### 1.2 **National Guidance and Standards**

- 1.2.1 The Department of Transport (DfT) has national responsibility for hackney carriage and private hire legislation in England and Wales.
- 1.2.2 The DfT produced [Best Practice Guidance](#) ('the Guidance') in 2006, which was last updated in 2023, to assist local authorities in this area of licensing. The Guidance provides recommendations of good practice but recognises that licensing authorities should produce their own policies and reach their own views in relation to specific licensing matters. Where appropriate, this policy takes the updated guidance into account.
- 1.2.3 In July 2020, the DfT issued [Statutory Taxi and Private Hire Vehicle Standards](#) to which all Licensing Authorities must have regard in carrying out their licensing function. Whilst the focus of these standards is on protecting children and vulnerable adults, they are intended to benefit all passengers; primarily through ensuring the fitness and propriety of applicants and licence holders.
- 1.2.4 The national standards reflect the significant changes in the industry and lessons learned from experiences in local areas since the Best Practice Guidance. Where there is a conflict between the national standards and the Best Practice Guidance, the national standards take precedence.

### 1.3 **Objectives**

- 1.3.1 In setting out its policy and carrying out its regulatory functions, Medway Council seeks to promote its [Corporate Strategy and Plan](#) and:
  - 1.3.1.1 The safety and wellbeing of the public and licensed drivers.
  - 1.3.1.2 The prevention of crime and disorder and the protection of customers and drivers from being the victims of crime.
  - 1.3.1.3 The provision of a professional and respected taxi and private hire trade.
  - 1.3.1.4 Accessibility to an efficient and effective public transport service.
  - 1.3.1.5 Support officers in delivering an efficient and effective service.

## 1.4 Consultation and Implementation

1.4.1 In drawing up this policy, Medway Council consulted with:

- The Local Trade Association
- Taxi and private hire trade
- Kent Police
- Medway Council Highways department
- Medway Council (Schools contracts department)
- Medway Town Centre Management
- Borough Councillors
- Parish Councils
- Members of the Kent and Medway Regulatory Licensing Steering Group
- Members of the public through the Council's website and local press.

1.4.2 It is anticipated that, subject to a full consultation process and any consequent revisions, this policy will take effect from 1<sup>st</sup> May 2026.

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

1.4.4 It would not be practicable to produce a policy that seeks to cover every possible scenario and licensing requirement. This policy therefore seeks to focus on issues that have caused difficulty in the past, have come to light since the publication of the previous revision, or that otherwise seem of particular significance.

1.4.5 In certain instances, we may conclude that a provision in the policy or code is either not relevant or is outweighed by another provision. We will ensure that any decision to depart from the policy or code will be justified, based on material evidence and documented giving clear and compelling reasons for so doing.

## 1.5 Compliance and Enforcement

1.5.1 This policy helps to promote efficient and effective approaches to regulatory compliance and enforcement that improve regulatory outcomes without imposing unnecessary burdens in accordance with the Regulator's Code.

1.5.2 In order to provide clarity and improve ease of use, Appendix G details the range of powers available to the Council and its authorised officers, and the enforcement action that may be taken as a result of a failure to comply, or demonstrate compliance, with any of the requirements contained within this policy or by law, as well as rights of appeal.

## 1.6 Revisions and Updates

1.6.1 This policy took effect on 1<sup>st</sup> May 2026 and will remain in existence for a period of five years, during which time it shall be kept under review and revised as appropriate or after any significant legislative change.

1.6.2 Any substantial amendment to this policy, will only be implemented once authorised by the Cabinet. For the purpose of this section, any substantial amendment is defined as one that:

1.6.2.1 Will have a significant financial effect on licence holders.

1.6.2.2 Will have a significant procedural effect on licence holders, or

- 1.6.2.3 May not be perceived by the trade or public to be consistent with the objectives in section 1.3 of this policy.
- 1.6.3 Any non-substantial amendments to this policy may be authorised by the Assistant Director (Legal and Governance).

## 1.7 **Data Protection**

- 1.7.1 In holding and exchanging information with other bodies/departments during the exercise of the functions under this Policy, officers are required to act in accordance with the provisions of the Acts, the Data Protection principles as set out in the General Data Protection Regulation, Data Protection Acts, and any duties under the Freedom of Information Act 2000.

## 2. **Vehicles and Proprietors**

### 2.1 **Types of Vehicle Licence**

- 2.1.1 The council issue licences for three different types of vehicle.
  - 2.1.1.1 Hackney Carriages (Taxis), which can stand on a taxi rank, be hailed in the street, or be pre-booked, either directly or through a licensed operator.
  - 2.1.1.2 Private Hire vehicles, which can only be used for pre-booked journeys made through a licensed operator.
  - 2.1.1.3 Restricted Private Hire vehicles, which are technically Private Hire vehicles whose use is restricted by condition(s) placed upon the licence. In Medway, there are two types of restricted private hire vehicle licence. The first is for contracted school runs only and the second is for executive car hire.

### 2.2 **Vehicle Criteria**

- 2.2.1 The Council has a wide range of discretion over the types of vehicle it can licence as hackney carriages or private hire vehicles.
- 2.2.2 Hackney carriages and private hire vehicles provide a service to the public, so it is considered appropriate to set minimum standards, provided that they are reasonable and proportionate.
- 2.2.3 The DfT encourages licensing authorities to leave it open to the trade to put forward vehicles of their own choice, but which meet specified criteria.
- 2.2.4 The criteria that apply to all licensed vehicle applications are given in Appendix A.

### 2.3 **Conditions**

- 2.3.1 The Council is empowered to impose such conditions as it considers reasonably necessary in relation to the grant of vehicle licences and has set out a number of conditions to assist licence holders to meet their legal obligations, ensure standards are maintained and help ensure the safety of passengers and drivers alike.
- 2.3.2 The standard conditions that apply to all licensed vehicles can be found in Appendix B.

## 2.4 **Limitation of Numbers**

- 2.4.1 No powers exist for licensing authorities to limit the number of private hire vehicles they licence; however section 16 of the Transport Act 1985 provides that the grant of a hackney carriage licence may be refused for the purpose of limiting the number of licensed hackney carriages “if, but only if, the local authority is satisfied that there is no significant demand for the services of hackney carriages (within the area to which the licence would apply) which is unmet.”
- 2.4.2 In the event of a challenge to a decision to refuse a licence on these grounds, it would therefore have to be established that the authority had been satisfied that there was no significant unmet demand.
- 2.4.3 The Guidance advises that the matter should be approached in terms of the interests of those who use the services of such vehicles and that, where a Council takes the view that a local quantity restriction can be justified in principle, it should establish the level of unmet demand and the quantity limit by means of a survey.
- 2.4.4 Many licensing authorities, including Medway Council, do not currently impose any quantity restrictions on hackney carriage vehicles, which is in keeping with the DfT guidance.
- 2.4.5 In the event of this changing and the Council commissioning an unmet demand survey, the cost would likely need to be funded by an increase in licence fees.

## 2.5 **Wheelchair Accessible Vehicles**

- 2.5.1 The Government is committed to an accessible public transport system in which disabled people can enjoy the same opportunities to travel as other members of society.
- 2.5.2 Taxis and private hire vehicles are a vital link in the accessible transport system. It is important that disabled users have access to them, and confidence that drivers and operators will assist and carry them at no extra charge, as is required by law.
- 2.5.3 The Council therefore maintains a [list of designated wheelchair accessible vehicles](#) on the Council’s website in accordance with section 167 of the Equality Act 2010.
- 2.5.4 The drivers of the vehicles listed must comply with the requirements under section 165 of the same Act in relation to the provision of assistance to, and safe and comfortable carriage of, wheelchair users at no extra charge.
- 2.5.5 The 2007 document, *Improving Access to Taxis* published by the European Conference of Ministers of Transport and the International Road Transport Union recognized that “it is impossible to provide for 100% of wheelchair users without reducing the operational viability of the vehicle for the taxi operator and other passengers. There will be a small proportion of people who, because of the size of their wheelchair or the nature of their disability are unable to access taxis or indeed other forms of mainstream public transport. They will continue to need specialist door-to-door services.”
- 2.5.6 The Council notes this point and considers that an appropriately proportioned, mixed fleet of WAVs and non-WAVs is the most suitable way to provide a service that is, as far as reasonably practicable, accessible to all. This does not mean that

all customers will be able to access an appropriate vehicle from/to all locations at all times; however, this applies to all users.

- 2.5.7 In 2021, the Council introduced a requirement that, 'All new Hackney Carriage drivers who wish to licence a Hackney Carriage vehicle must ensure that it is a purpose built or converted wheelchair accessible vehicle, capable of carrying the majority of passengers who travel in their wheelchair as well as people with other disabilities. Importantly, such wheelchair accessible vehicles must be able to accommodate a person whilst in a wheelchair and convey them in a safe and comfortable manner.'
- 2.5.8 For the avoidance of doubt, reference to 'new hackney carriage drivers' in 2.5.7 includes:
- 2.5.8.1 Any person issued with a Medway Taxi driver licence for the first time; and
- 2.5.8.2 Any person issued with a Medway Taxi driver licence following a period of being unlicensed for two or more years.
- 2.5.9 Following the introduction of the above requirement, the proportion of wheelchair accessible taxis in Medway has increased but is still very low at 8% (at the time of writing).
- 2.5.10 In light of the above, the Council is of the view that there is still a need to gradually increase the proportion of wheelchair accessible taxis. The Council would however encourage all drivers to consider disability when changing their vehicles.
- 2.5.11 In order to maintain and gradually improve the balanced nature of the licensed fleet, the Council has retained the requirements set out in 2.5.7 and 2.5.8.
- 2.5.12 The Council recognises that some new taxi drivers who fall within the scope of these requirements may seek to circumvent them by driving a non-WAV licensed by someone else, which is neither in the spirit of the policy requirement nor in support of providing an accessible service to wheelchair users.
- 2.5.13 In order to rectify this issue, the Council also requires all existing vehicle licence proprietors applying to licence or re-licence vehicles that will be driven at any time by a new hackney carriage driver, as defined in 2.5.8, to ensure that it is a WAV as defined in 2.5.7.
- 2.5.14 It is difficult to predict how many drivers of WAVs will enter or leave the trade; therefore, this section of the policy will be kept under review.

## 2.6 **Environmental Considerations**

- 2.6.1 The Guidance suggests that licensing authorities may wish to consider how far their vehicle licensing policies can and should support any local environmental policies they have adopted, for example, by considering setting vehicle emissions standards, but bearing in mind the need to ensure that the benefits outweigh costs (in whatever form).
- 2.6.2 In April 2019, the Council passed a Climate Change Emergency Motion and committed to reduce carbon emissions in Medway. In working towards achieving this, the Council must consider the environmental impacts arising from its licensed

taxis and PHVs and seek to help reduce the resultant carbon footprints. This section, and the associated vehicle criteria, will therefore be kept under review.

- 2.6.3 All newly licensed vehicles, other than WAVs and limousines, should meet the Euro 6 standard (as a minimum) as a result of them having to be less than 7 years old at the time of first being licensed.
- 2.6.4 In order to ensure that this is the case, and to support the Council's efforts to reduce air pollution in Medway, from the implementation of the 2021 policy, the council specified within its vehicle criteria (Appendix A) that all vehicles presented for first time licensing from , other than stretched limousines and Wheelchair Accessible Vehicles, will have to meet or exceed the Euro 6 emission standards.
- 2.6.5 Emissions from taxis and PHVs can be further reduced by encouraging better maintenance of vehicles, such as by way of frequent MOT tests and inspections, and switching off engines when stationary or idling, particularly at taxi ranks.
- 2.6.6 The Council will keep this matter under review and continue to monitor published research, its air quality monitoring results and recommendations, best practice and Government guidelines, etc. with a view to specifying more stringent vehicle emission and/or inspection standards and promoting cleaner fuels in respect of licensed vehicles as soon as practicable.
- 2.6.7 The Council would however strongly encourage all applicants and existing licence holders to licence vehicles that are of an electric, hybrid, or other low emission type, subject to them meeting the other criteria set out in Appendix A as a minimum. Each application will be considered on its merits.

## 2.7 **Vehicle Testing (MOT Tests) and interim inspections**

- 2.7.1 The general fitness and roadworthiness of a licensed vehicle is, in part, determined by means of MOT tests and inspections.
- 2.7.2 The safe transport of passengers in taxis and PHVs is paramount. Due to this, and the above-average mileage often carried out by taxis and PHVs compared to ordinary private vehicles, all vehicles over one year old are required by the Council to comply with the following requirements:
  - 2.7.2.1 To pass an annual MOT test starting from their one year anniversary.
  - 2.7.2.2 To pass an annual interim inspection, carried out by one of the Council's approved garages, at the six-monthly interval between their annual MOT tests.
- 2.7.3 All MOT tests and interim inspections will be at the licence holder's cost.
- 2.7.4 Failure to comply with this will impede the Council's ability to be satisfied of the fitness of the vehicle, resulting in the likely suspension of the vehicle licence.
- 2.7.5 The Council no longer routinely requires MOT pass certificates to be provided. Instead, the Council will ordinarily check the MOT status of vehicles online via the GOV.UK website. The Council may however nevertheless require MOT pass certificates to be provided in certain circumstances as determined by them.

2.7.6 The elements checked at an MOT test can be viewed on the GOV.UK website at: <https://www.gov.uk/government/publications/car-parts-checked-at-an-mot/car-parts-checked-at-an-mot>

## 2.8 Pre- Inspections and other inspections

2.8.1 In addition to the MOT testing and Interim inspections, all vehicles will ordinarily require inspection before a new or renewed vehicle licence will be granted in order to ensure that the vehicle is fit and meets our criteria.

2.8.2 All such inspections will routinely be carried out by one of the Council's approved garages no more than one month prior to the submission of the application.

2.8.3 Full details of the approved garages are provided within the vehicle pages of [taxi and private hire applications and guidance](#) section of the Council's website.

2.8.4 In addition, vehicles may be inspected and tested at any reasonable time by an authorised officer of the Council or police for the purpose of ascertaining their fitness or, where applicable, the accuracy of their taximeters.

2.8.5 For a vehicle to be considered as 'fit' it should comply with all conditions and requirements set out within this policy and legislation.

2.8.6 Where an authorised officer is not satisfied as to the fitness of a vehicle or accuracy of its taximeter, they may serve a notice requiring the vehicle to be submitted for a further test at the proprietor's expense and suspend the vehicle licence until such time as the officer becomes satisfied of the same. Further information can be found in Appendix G.

2.8.7 The Council's view is that for a vehicle to be considered as 'fit' it must comply with all applicable requirements set out within this policy and its appendices, in particular those in relation to MOT testing and compliance with the criteria and conditions found in Appendices A to B.

2.8.8 All vehicles should therefore, at all times, be kept at or above the standard required to pass an MOT test and comply with all applicable elements of the vehicle criteria and conditions found in Appendices A to B, or elsewhere in this policy. Failure to do so is likely to result in enforcement action being taken.

2.8.9 It is a criminal offence to obstruct a Licensing Officer or any other authorised officer of the Council.

## 2.9 Insurance

2.9.1 All vehicles and their drivers must be appropriately insured at all times, and certification must be provided to the Council to evidence this as required/requested.

## 2.10 Plates

2.10.1 In order to help identify their licensed status, all licensed vehicles, except for limousines (see 2.17) and those issued with an exemption (see 2.10.4), are required to display Council-issued plates externally on the rear of the vehicle at all times. Hackney carriage plates are white, private hire vehicle plates are yellow, restricted private hire vehicle plates for school runs only are green and restricted private hire vehicle plates for executive car hire are red.

- 2.10.2 Similarly, all licensed vehicles are also required to display a Council-issued 'interior plate' on the inside of the front windscreen or other such place as the council may reasonably require where it can be easily seen by passengers whilst travelling or when approaching a vehicle from in-front of it.
- 2.10.3 The ability to identify a licensed vehicle through the display of vehicle plates is important in terms of protecting both the public and trade; however, there are limited occasions when their display might have the opposite effect, or adverse commercial implications. The operation of chauffeured luxury and limousine vehicles is a case in point. Identification of the vehicle as licensed may allow "high risk" passengers to be more readily targeted; putting both them and the driver at risk, and the display of plates may also deter some customers from using the service.
- 2.10.4 The Council may, in such circumstances, issue the proprietor of a private hire vehicle (only) with a notice exempting them from the requirement to display the plate(s) on their vehicle; either on a specified occasion or while the notice is carried in the vehicle, during which they will automatically also be exempt from the requirement to wear a private hire drivers badge.
- 2.10.4.1 It is intended that only a very small minority of private hire vehicles should have access to this exemption. To that end, the Council will only consider issuing exemption notices where the vehicle is made by a luxury car-manufacturer, such as Rolls Royce or Bentley (the highest specification cars from other high-end manufacturers may also be considered) and the vehicle is in excellent condition inside and outside, with no visible damage or defects whatsoever.

## 2.11 **Dual Plating/Licensing**

- 2.11.1 No vehicle will be granted a licence by Medway Council if it is licensed by another authority. This is because a vehicle is unlikely to comply with the requirements of two separate licensing authorities, could cause confusion to members of the public and impede the Council's ability to effectively regulate.

## 2.12 **Advertising**

- 2.12.1 Due to risks in relation to such matters as false, misleading or out of date information, or association with individuals, brands, companies, services or products that could fall into disrepute, the Council does not permit commercial advertising (or any other advertising without the consent of the Council) on the vehicles it licences other than the basic details of a private hire operator in accordance with the conditions set out in Appendix B.
- 2.12.2 Notwithstanding this, the Council may at any time require stickers, signage, advertisements, notices or similar to be displayed, as may be specified, in vehicles licensed by it for the purposes of promoting the objectives set out in 1.3 of this policy.

## 2.13 **Smoking**

- 2.13.1 Smoking is not permitted in any licensed vehicle by anyone at any time; irrespective of whether the vehicle is being used for work or private use.
- 2.13.2 A person commits an offence under the Health Act 2006 if they smoke, or allow someone to smoke, in a licensed vehicle.

- 2.13.3 Regulations made under the Health Act 2006 require all licensed vehicles to display at least one legible no-smoking sign in the vehicle.
- 2.13.4 The Council considers however that additional no-smoking signage should be displayed on the taxis and PHVs it licences in order to provide consistency and clarity to the public and, in doing so, reduce the likelihood of one of the offences referred to in 2.13.2 being committed and the consequential likelihood of conflict.
- 2.13.5 Notwithstanding that vaping/use of e-cigarettes is not included within the legal definition of smoking set out in the Health Act 2006, and PHE's 2018 independent e-cigarette evidence review found that, to date, there have been no identified health risks of passive vaping to bystanders, the use of e-cigarettes in a licenced vehicle could easily be perceived by the public as smoking, and be damaging to the reputation of the local trade. In addition, it would be difficult for council officers to differentiate vaping 'smoke' from tobacco smoke, making enforcement challenging. For these reasons, vaping/use of e-cigarettes is not permitted in licenced vehicles.
- 2.13.6 The conditions relating to no-smoking signage are contained in Appendix B.

#### 2.14 **Closed Circuit Television (CCTV)**

- 2.14.1 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.
- 2.14.2 Security for drivers and passengers is of paramount importance. The main areas of concern are:
- threats and assaults on drivers.
  - allegations of drivers assaulting or otherwise behaving inappropriately towards passengers.
  - customers leaving vehicles without paying.
  - allegations of theft associated with licensed vehicles.
  - safeguarding; especially in relation to children and vulnerable adults.
- 2.14.3 CCTV cameras can be a valuable deterrent for such incidents and, as well as protecting the driver from unjustified complaints, help to:
- prevent crime.
  - identify the perpetrators of crime.
  - reduce the fear of crime.
  - increase the safety of drivers and passengers.
- 2.14.4 In the light of the above the Council permits the installation of an approved CCTV camera system in all hackney carriage and private hire vehicles it licences.
- 2.14.5 The installation and operation of all CCTV systems must comply with the Surveillance Camera Commissioner's Code of Practice and the Information Commissioner's Code of Practice for Surveillance Cameras and Personal Information (or subsequent amendments or replacements).

#### 2.15 **Protective screens**

- 2.15.1 In order to offer additional personal protection, drivers may wish to install a protective screen/shield around the driving seat. There will be no objection to the

installation of such screens/shields provided that, to the satisfaction of the Council, they:

- Are of a make, type and design approved by authorised officers of the Council.
- Are not changed in any way from the original design and are free of damage.
- Remain clear, clean and transparent.
- Are free of scratches, clouding or stickers which could impede the drivers' or passengers' visibility.
- Do not impede entry and egress or present a trip or other hazard to passengers.
- Are installed and maintained in accordance with manufacturer's specifications and recommendations.
- Do not impede the ability for clear, two way communication between the driver and any passengers.

## 2.16 Seating

- 2.16.1 The Council will only licence vehicles designed and constructed to carry between 4 and 8 passengers.
- 2.16.2 The passenger capacity will ordinarily be determined by the V5C registration certificate information but is ultimately at the discretion of the licensing authority.
- 2.16.3 Children are classed as one person for the purposes of passenger capacity: whatever the age.
- 2.16.4 Seating may only be removed temporarily for the purpose of making space for carrying luggage or wheelchairs, where they have been adapted with the installation of appropriate anchorage. Seating must not be altered permanently without notifying the Council - proprietors wishing to alter the number of passenger seats may apply to do so through the DVLA and subsequently by applying to change their vehicle licence details via the Council's [online form for updating a taxi or private hire licence](#).
- 2.16.5 Where emergency egress from a vehicle with two or more rows of rear passenger seats could be impeded by the seats in front, and individual seats are fitted, it may be necessary to remove a second row middle seat to permit improved egress; thereby reducing the maximum permissible passengers by one.

## 2.17 Limousines

- 2.17.1 Licensing authorities are sometimes asked to licence stretched limousines as private hire vehicles. The Guidance suggests that such requests should be approached on the basis that these vehicles have a legitimate role to play in the private hire trade, meeting a public demand, and not therefore be excluded.
- 2.17.2 PHV licence applications for limousines which meet the relevant statutory criteria and those specified in Appendix A will therefore be duly considered on their merits.
- 2.17.3 All licensed limousines must adhere to the applicable conditions in Appendix B.
- 2.17.4 Because of the additional criteria and conditions applicable to limousines, the Council strongly recommends that anyone wishing to licence a limousine contacts the licensing authority before purchasing a vehicle so that advice can be provided as to whether the vehicle will be considered as eligible for licensing.

## 2.18 **Contract Vehicles**

- 2.18.1 Vehicles engaged on contracts lasting not less than seven days were previously exempt from PHV licensing requirements by virtue of s75(1)(b) of the Local Government (Miscellaneous Provisions) Act 1976. This 'contract exemption' was however repealed by s53 of the Road Safety Act 2006 with effect from January 2008 resulting in the majority of vehicles which previously took advantage of this exemption requiring a licence.
- 2.18.2 In August 2011 the DfT published a [guidance document](#) to assist local licensing authorities determine which vehicles should be licensed in the PHV regime and which vehicles fall outside the PHV definition.
- 2.18.3 Whilst the Council will decide every application on its merits, the assessment as to whether or not vehicles operating as part of: - limousine; chauffeur/executive; dedicated event transport; ambulance; voluntary care and support worker; childminding; rental car company or garage courtesy lift; and prisoner transport, services require a PHV licence or not will include reference to this document.
- 2.18.4 The Council strongly advises anyone wishing to provide a service that may fall within one of the above named areas to contact the licensing authority for advice.

## 2.19 **Courtesy Cars**

- 2.19.1 Current case law supports the view that vehicles which are used as 'courtesy cars', i.e. for transporting customers to and from hotels, night-clubs, etc. are being provided for hire and reward in the course of business, irrespective of whether or not a charge is made for such service. Those operating such 'courtesy cars' will therefore require an operator's licence, and the vehicle(s) and driver(s) must also be appropriately licensed.

## 2.20 **Funeral Vehicles**

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

## 2.21 **Wedding Vehicles**

- 2.21.1 A vehicle does not need to be licensed while it is being used in connection with a wedding and written certification from the Council of the relevant exemption claimed is not currently required.

## 2.22 **Livery**

- 2.22.1 Some Council's require taxis to conform to particular requirements in terms of livery and markings so that they can be easily identified. Medway Council requires that licensed vehicles be finished in a special livery set out in this policy document.

## 2.23 **Proprietor Criminal Record Checks**

- 2.23.1 As with driver licensing, the objective of vehicle licensing is to protect the public, who trust that the vehicles dispatched are above all else safe. It is important therefore that licensing authorities are assured that those granted a vehicle licence also pose no threat to the public and have no links to serious criminal activity.

Although vehicle proprietors may not have direct contact with passengers, they are still entrusted to ensure that the vehicles and drivers used to carry passengers are appropriately licensed and so maintain the safety benefits of the licensing regime.

- 2.23.2 Where a proprietor is not a Medway-licenced driver, who is subject to the associated enhanced disclosure check requirements, the following provisions shall apply.
- 2.23.3 Licensed vehicle proprietors, who are not licensed drivers, cannot be required to produce an enhanced DBS disclosure. The national standards recommend however that licensing authorities should request a basic disclosure from the DBS and that subsequent checks are undertaken annually.
- 2.23.4 Given that vehicle licences are issued for a standard one year period, all applicants, who are not already Medway-licenced drivers registered with the DBS Update Service, must provide a completed Basic DBS Check Certificate prior to the grant of each licence.
  - 2.23.4.1 Where an applicant or licence holder has spent an extended period (three or more continuous months) outside the UK, a Certificate of Good Conduct will also be required in accordance with sections 3.12.16 to 3.12.19 inclusive.
  - 2.23.4.2 Where the applicant is a company or partnership, these requirements shall apply to all directors, partners, and secretaries.
- 2.23.5 A reference covering, for example, all applicants' financial records and/or business history may also be required, as determined by the Council.
- 2.23.6 The council may, at any point throughout the duration of this Policy, specify (by way of updating the relevant sections of its website) the way in which applicants can/must apply for their DBS certificates (e.g. via a 3rd party). Applicants will continue to be responsible for all costs associated with this.

## 2.24 **Application Procedures and Fees**

- 2.24.1 Section 5 applies.

## 2.25 **Determination of Applications**

- 2.25.1 Section 6 applies.

## 2.26 **Grant and Renewal of Licences**

- 2.26.1 Section 7 applies.

## 2.27 **Duration of Licences**

- 2.27.1 Vehicle licences are granted for a period of one year as standard; however, they may be issued for a lesser period of time if in the opinion of the Council it would be appropriate to do so.

### 3. **Drivers**

#### 3.1 **Types of Driver Licence**

- 3.1.1 To drive a hackney carriage or private hire vehicle, the driver must also be licensed by the same Council.
- 3.1.2 Medway issue Dual Hackney Carriage and Private Hire Driver Licences. This licence enables the holder to drive Medway licensed hackney carriages and/or private hire vehicles.
- 3.1.3 Medway issued private hire driver licences enable the holder to drive Medway licensed private hire vehicles or restricted private hire vehicles for executive car hire.
- 3.1.4 A restricted private hire driver's licence enables the holder to drive Medway licensed restricted private hire vehicles for school runs only. Restricted private hire licences are, in effect, private hire licences that are subject to additional conditions restricting the type of work that they can carry out. Those applying for a restricted private hire licence will therefore, unless otherwise specified, be subject to the same requirements and provisions that apply to other private hire applicants and licence holders.

#### 3.2 **Eligibility Criteria and Application Requirements**

- 3.2.1 The Council can only grant a driver's licence to someone who; has held a full driving licence for a minimum of 12 months prior to the date of application; has legal right to live and work in the UK as a taxi or private hire driver; and, in the Council's opinion, is a 'fit and proper' person (See Appendix C for further details).
- 3.2.2 In order to be considered eligible to be granted a driver licence, the Council requires all applicants to:
  - 3.2.2.1 Be at least 21 years of age.
  - 3.2.2.2 Have held a full DVLA, Northern Ireland, or other EEA state driving licence for at least 12 months prior to the date of application.
  - 3.2.2.3 Have an acceptable driving history.
  - 3.2.2.4 Have a legal right to live and work in the UK as a taxi or private hire driver.
  - 3.2.2.5 Pass a specified Knowledge Test.
  - 3.2.2.6 Pass an advanced practical driving assessment.
  - 3.2.2.7 Attend safeguarding awareness training (which may include, but not be limited to, such elements as Child Sexual Exploitation and County Lines Exploitation awareness) and, if required, pass an associated test.
  - 3.2.2.8 Attend disability awareness training and, if required, pass an associated test.
  - 3.2.2.9 Pass a Medical Examination to the 'Group 2' standard.

- 3.2.2.10 Be suitably proficient in the English language, in terms of oral, reading and written skills.
- 3.2.2.11 Be of reliable good character and have an acceptable history and criminal record as determined by the Council in accordance with this policy and its appendices, and having regard to any statutory guidance issued.
- 3.2.3 Applicants are required to submit such information as the Council considers necessary to enable their application to be determined. The Council therefore requires that every application for a licence to drive a hackney carriage and/or private hire vehicle must be accompanied, as a minimum, by evidence (as specified by, and to the satisfaction of, the Council) of the matters listed in 3.2.2 (and that applications that are incomplete will not be deemed to have been made until such time as they are completed).
- 3.2.4 Where an authorised officer of the Council or the police has any doubt as to an existing licensed driver's eligibility, fitness, propriety or compliance with any of the requirements, they may require the driver in question to undergo/re-take and pass any element(s) considered necessary.
- 3.2.5 All prospective applicants should read the following sections, which explain each of the requirements summarised in 3.2.2 and 3.2.3 in detail, in conjunction with the application process set out on the [driver licence application and guidance pages](#) on the Council's website and our Guidelines Relating to Fitness and Propriety in Appendix C, and contact the Licensing Team if they are in any doubt as to their eligibility or the application requirements, before progressing their application.
- 3.2.6 For the purposes of these requirements, a new applicant is deemed to be anyone applying for a licence for the first time or after a period of being unlicensed for a period of six months or more irrespective of their previous experience as a licence holder. However, ordinarily, only those applicants who have been unlicensed for a period of more than two years will need to re-sit and re-pass the knowledge test and practical driving assessment elements.

### 3.3 **Age**

- 3.3.1 Licensed drivers are responsible for the safety of the customer and require a mature attitude when dealing with those who may be vulnerable or have special needs.
- 3.3.2 Research shows that the combination of youth and inexperience puts younger drivers at a higher risk of crashing than older drivers; in general, their inexperience means they are less likely to spot hazards, and their youth means they are more likely to take risks.
- 3.3.3 Consequently, applicants must be at least 21 years old at the date of application.
- 3.3.4 No upper age limit is imposed provided that a driver can demonstrate that they are still medically fit to hold such a licence - see 3.10.

### 3.4 **Driving Experience**

- 3.4.1 Applicants must have held a full driving licence for at least 12 months prior to the date of application.

3.4.2 To ensure appropriate regulation of any penalty points issued by the courts in relation to road traffic offences, applicants who meet this requirement by virtue of an acceptable non-UK driving licence must obtain a full UK driving licence within twelve months of the grant of a hackney carriage or private hire driver's licence.

3.4.3 Failure to comply with this is therefore likely to result in formal action being taken to suspend the driver's licence, pending compliance, as set out in our Compliance and Enforcement Policy found in Appendix G.

### 3.5 **Driving History**

3.5.1 Applicants must have an acceptable driving history.

3.5.2 This will be determined in line with our Guidelines Relating to Fitness and Propriety in Appendix C.

3.5.3 In order to allow the licensing authority to have sufficient access to applicants' driving record, all new applicants must apply to the DVLA for the release of the requisite information as detailed on the [Driver Licence - Apply or Renew](#) webpage.

3.5.4 In addition, all applications (for both new licences and renewals) must provide a unique 'check code' obtained from the [GOV.UK website](#) on their application form, and otherwise upon reasonable request, and give consent for the Council to access their DVLA driving history using the code supplied.

### 3.6 **Right to a Licence Checks**

3.6.1 From 1 December 2016, right to a licence checks became a mandatory part of the licensing regimes for taxis and private hire vehicles to better prevent illegal migrant working in this sector of the economy.

3.6.2 The new provisions, brought about by the Immigration Act 2016, mean that licensing authorities are prohibited from issuing driver and operator licences to anyone who is illegally present in the UK or not permitted to work in this sector.

3.6.3 All new applicants for driver licences must submit one or more of a number of specified original documents or a right to work check code, to show that they are in the UK lawfully and permitted to work as a private hire or taxi driver.

3.6.4 The [full list of approved original documents](#) can be accessed via our website.

3.6.5 Anyone who produces a specified document demonstrating that there are no restrictions on their ability to live and work in the UK will only need to do so once; provided the Council retains a copy of the document(s).

3.6.6 Anyone with limited permission to be, or work, in the UK will need to produce a specified document or check code, each time they apply to renew or extend their licence, until such time as there is no restriction on their permission to be or work in the UK.

3.6.7 If an applicant's immigration permission to be in the UK is time-limited to less than the statutory length for a driver licence, the licence issued cannot be for a duration which exceeds that period.

- 3.6.8 The licence holder will need to provide documentation or a new check code which supports their right to continue living and working in the UK, before the licence is granted.
- 3.6.9 If the holder of a licence breaches UK immigration laws and commits an offence or receives a penalty, this will be grounds for the licensing authority to review, suspend or revoke a licence as set out in our Compliance and Enforcement Policy found in Appendix G.
- 3.6.10 If the Home Office cuts short or ends a person's immigration permission (referred to as curtailment or revocation), any licence that a person holds which was issued on or after 1 December 2016 will automatically lapse. In these circumstances, the holder of the licence must return their licence to the Council. They will be committing a criminal offence if they fail to do so, punishable on conviction by a fine.

### 3.7 **Knowledge Test**

- 3.7.1 In order to maintain the high standard of service and knowledge that the Council expects of its licensed drivers, all new applicants are required to pass a Knowledge Test, which is subject to periodic revision, before they will be eligible to apply.
- 3.7.2 Full details can be found on the Council's [Knowledge Test web page](#).

### 3.8 **Practical Driving Assessment**

- 3.8.1 In order to help ensure both driver and passenger safety and comfort, all new applicants for a driver licence are required to demonstrate their driving proficiency by passing an advanced practical assessment, approved by the Council, prior to submitting an application.
- 3.8.2 Applicants are solely responsible for arranging, booking, financing and paying for their test directly with one of the Council's approved providers, details of which are given on the Council's [driver licence pages](#).
- 3.8.3 In the case of drivers using a wheelchair accessible vehicle, the assessment must include a wheelchair assessment.
- 3.8.4 All new applicants will be required to provide a copy of their pass certificate/s in order to demonstrate this requirement has been satisfied. Provision is made for these to be attached to the online application forms.
- 3.8.5 Where an authorised officer of the Council or the police has any doubt as to an existing licensed driver's technical competency/driving ability, they may require the driver in question to re-take and pass the advanced practical driving assessment/s.

### 3.9 **Safeguarding**

- 3.9.1 Licence holders provide a public service and have a duty of care to all customers and a responsibility to report concerns about someone who is vulnerable. In order to reinforce this, drivers are required by condition to report any concerns about the safety or vulnerability of a passenger.
- 3.9.2 All applicants and existing drivers will also be required, at their expense, to attend an approved Safeguarding Awareness session, subsequent refresher training at intervals determined by the Council and, if required, pass an associated test to

demonstrate a satisfactory understanding of the matters covered. Full details will be specified and maintained on the Council's [driver licence webpages](#).

### **3.10 Medical Examination**

- 3.10.1 The Guidance advises that medical checks should be made on each driver to the 'Group 2' standard before a licence is granted or renewed, and that any driver with insulin treated diabetes should also be required to meet the [additional criteria](#) applicable to drivers of C1/Group 2 vehicles specified by the DVLA.
- 3.10.2 The Council has adopted this best practice and therefore requires all applicants to have a medical examination carried out by their own GP, or another doctor with access to their medical records, as detailed and in accordance with the requirements set out on the [Driver Licence - Apply or Renew](#) pages of Council's website. Those with insulin treated diabetes will also need to satisfy the additional criteria referred to in 3.10.1.
- 3.10.3 Completed medical reports presented to the Council by holders of current passenger carrying vehicle (PCV), large goods vehicle (LGV) or taxi/private hire driver licences issued by other Councils will also be considered on the strict proviso that they are under 3 months old at the date of application and are to the Group 2 standard.
- 3.10.4 Except for in extenuating circumstances as determined by the Council, medical reports must be less than 3 months old at the date of application and will ordinarily be accepted as valid for a period of three years from the date on which they were carried out for licence holders up to the age of 65 unless, in the opinion of the examining medical practitioner, more frequent assessments are required.
- 3.10.5 Existing licensed drivers under 65 years old will therefore need to submit a new medical report with their three-yearly renewal application.
- 3.10.6 Annual medical checks will be required by all drivers aged 65 of over.
- 3.10.7 Applicants are responsible for arranging and paying for their medical examinations.
- 3.10.8 Licence holders must advise the Council of any change in their health that may affect their driving capabilities as soon as reasonably practicable.
- 3.10.9 Where there is any doubt as to the medical fitness of an applicant or existing driver, the Council may require them to undergo further medical examination(s) by a doctor appointed by the Council at their own expense.
- 3.10.10 Where there remains any doubt about the fitness of any applicant the Council will make a final decision in the light of all medical evidence available.

### **3.11 Criminal Record Checks**

- 3.11.1 Licensing authorities are entitled to request enhanced criminal record checks with checks of the barred lists to be carried out for the purpose of assessing an applicant's suitability to obtain or hold a driver licence.
- 3.11.2 The Council views such checks as an essential tool for helping assess a person's fitness and propriety prior to the grant or subsequent renewal of a driver licence, and at any point throughout the duration of a licence.

- 3.11.3 The national standards recommend that such checks are now routinely carried out via the Update Service every six months.
- 3.11.4 In accordance with this, the Council requires:
- 3.11.4.1 All new applicants to provide a completed Enhanced DBS Disclosure Application (see 3.11.6) at the point of their initial application, register for the DBS Update Service upon receipt of their Certificate, which will be sent to them by the DBS and give the Council ongoing permission and the information required to check the status of their certificate every six months or otherwise as considered appropriate.
- 3.11.5 The Council is required to state the position being applied for (i.e. taxi driver or private hire driver) on the DBS application forms before they are submitted which, in part, determines the depth of the check. Applicants will receive the outcome of the check on an 'Enhanced DBS Certificate' sent to their home address which will confirm the position applied for as stated on the application and which they will need to provide to the Council, as the Council will not receive a separate copy. For this reason, the Council will only accept enhanced DBS certificates obtained from an application made through itself or, alternatively, through another licensing authority provided that the certificate is less than 3 months old at the date of application and clearly states the position applied for as taxi driver or private hire driver, as appropriate.
- 3.11.6 The council may, at their discretion, also accept certificates obtained directly through other licensing authorities provided the level of check carried out is in no way less comprehensive, reliable or secure. The Council is however, not obliged to not accept enhanced DBS checks obtained in relation to any other purpose or profession or by any other means nor will it accept any that have been carried out by any other external Agency.
- 3.11.7 Once a driver has registered for the Update Service, they must remain registered and give the Council permission to check the status of their certificate as considered necessary, for the duration of their time as a licensed driver with the Council.
- 3.11.8 Anyone who fails to register for the Update Service or maintain continuous registration as required will be subject to enforcement action, including suspension until such time as the situation has been rectified to the Council's satisfaction i.e. until they have provided a satisfactory Enhanced DBS certificate and evidence of the certificate being registered with the update service.
- 3.11.9 The Council will check the status of a driver's DBS certificate via the Update Service as part of the renewal application process, and at any other time considered appropriate during the validity of that person's licence.
- 3.11.10 Where a status check reveals that the individual's certificate remains current, that person's criminal record check will ordinarily be deemed as satisfactory.
- 3.11.11 Where a status check reveals that the individual's certificate is no longer current, that person's criminal record check will be deemed as unsatisfactory, they may be subject to enforcement intervention, and they will need to apply for a new Enhanced DBS check through the Council and provide their certificate to the Council as explained above.

- 3.11.12 The council reserves the right to require any licence holder to take such steps as are required to provide a new DBS certificate if needed.
- 3.11.13 Details of how to sign up to the Update Service can be found on the [GOV.UK website](#).
- 3.11.14 Applicants are responsible for paying all fees.
- 3.11.15 If the licence is granted and relevant information is later revealed on a disclosure certificate, then that licence will be subject to review.
- 3.11.16 The DBS cannot access criminal records held overseas therefore a DBS check may not provide a complete view of an applicant's criminal record if they have lived outside the UK.
- 3.11.17 Due to this, and to allow the Council to make a more informed decision when considering a licence application, all applicants who have spent an extended period (three or more continuous months) outside the UK will also need to obtain a criminal record check from the country or countries they have lived in. This is commonly referred to as a 'Certificate of Good Conduct/Character.'
- 3.11.18 Applicants should note that the application process for obtaining a Certificate of Good Conduct varies from country to country – further information can be found on the [GOV.UK website](#).
- 3.11.19 Certificates of Good Conduct must be authenticated, sealed by the relevant embassy or consulate, and issued in English (a certified translation is also permitted).
- 3.11.20 The Council is bound by rules of confidentiality and will not divulge information obtained to any third parties. Information arising from disclosures will be kept only for as long as necessary and then destroyed.
- 3.11.21 The council may, at any point throughout the duration of this Policy, specify (by way of updating the relevant sections of its website) the way in which applicants can/must apply for their DBS certificates (e.g. via a 3rd party). Applicants will continue to be responsible for all costs associated with this.

### 3.12 **Relevance of Convictions and Cautions**

- 3.12.1 In April 2018, the Institute of Licensing (working in partnership with the Local Government Association, National Association of Licensing and Enforcement Officers and Lawyers in Local Government) published *Guidance on determining the suitability of applicants and licensees in the hackney carriage and private hire trades*.
- 3.12.2 It was hoped that widespread adoption of the standards presented in the guidance would achieve a level of consistency, with public safety at the forefront, when considering applications for taxi and private hire licences and prevent 'licence shopping' where an individual refused in one area is subsequently granted a licence in another area with less onerous requirements.
- 3.12.3 The national standards effectively mirror most of those set out in the 2018 guidance: placing them on a statutory footing.

- 3.12.4 In accordance with the requirement to have regard to the national standards, and in support of the council's view that public safety is of paramount importance, the council has adopted the national standards and incorporated them into the council's 'Guidelines Relating to Fitness and Propriety' which can be found in Appendix C and which the Council will refer to when considering the fitness and propriety of applicants and licence holders.
- 3.12.5 Standards already contained in the council's policy that are more stringent than those set out in the national guidance have been retained.
- 3.12.6 Notwithstanding the above, each case will be considered on its merits.

### 3.13 **Licensee self-reporting**

- 3.13.1 Licence holders are required to notify the council in writing via email to [licensing@gravesham.gov.uk](mailto:licensing@gravesham.gov.uk) within 48 hours of an arrest and release, charge or conviction of any sexual offence, any offence involving dishonesty or violence and any motoring offence.
- 3.13.2 An arrest for any of the offences within this scope will ordinarily result in a review by the council as to whether the licence holder is fit and proper.
- 3.13.3 A failure by any licence holder to disclose a matter referred to in 3.13.1 that the council is subsequently advised of may be seen as behaviour that questions honesty and therefore the suitability of the licence holder regardless of the outcome of the initial allegation.

### 3.14 **Licence History**

- 3.14.1 The Local Government Association commissioned the development of a national database of taxi and PHV driver licence refusals, suspensions and revocations (NR3S), which became operational in April 2018.
- 3.14.2 The database, developed and hosted by the National Anti-Fraud Network (NAFN), allows councils to record details of where a driver's licence has been refused, revoked or suspended, as well as to check applicants against the database.
- 3.14.3 This will help prevent individuals deemed to be not fit and proper in one area from going to another area and securing a licence by not disclosing their previous licensing history; something that undermines public safety and confidence in the licensing regime and the authorities that administer it.
- 3.14.4 The council support the use of this database for the reasons outlined above and may therefore utilise it to record details of where a driver's licence has been refused, revoked or suspended, as well as to check applicants against the database.
- 3.14.5 Such checks may be carried out when considering an application and be used to inform the council's decision as to whether or not to grant the licence to which the application relates.
- 3.14.6 Each case will be considered on its merits; however, in general, the council will be less likely to grant a licence to a person who has previously had a licence refused, suspended or revoked.

### 3.15 **Date of application**

- 3.15.1 For the purposes of clarity, all references to the date or point of application in section 3 of this Policy are considered by the Council to be when the applicant submits, and pays the relevant fee for, their application after having satisfied all other associated application requirements.

### 3.16 **Application Procedures and Fees**

- 3.16.1 Section 5 applies.

### 3.17 **Determination of Applications**

- 3.17.1 Section 6 applies.

### 3.18 **Grant and Renewal of Licences**

- 3.18.1 Section 7 applies.

### 3.19 **Duration of Licences**

- 3.19.1 Driver licences are granted for a standard period of three years; however, they may be granted for such lesser period, specified in the licence, as the council thinks appropriate in the circumstances of the case. Driver licences may expire (i.e. be suspended) mid-term due to such matters as the expiration of their right to work. In such instances, drivers will need to [apply to continue their licence](#) via the Council's online form and provide evidence of their continued right to work.

### 3.20 **Licence Conditions**

- 3.20.1 The Authority is empowered to attach such conditions to a private hire driver's licence as are considered necessary.
- 3.20.2 The Council's standard conditions are set out in Appendix D.
- 3.20.3 It is not permitted to attach conditions to a hackney carriage driver's licence; however, all Medway issued dual hackney carriage and private hire driver licences enable both hackney carriages and PHVs to be driven, hackney carriage licence holders are required to comply with the same conditions under the private hire 'element' of their licence.
- 3.20.4 For clarity, the private hire driver conditions apply at all times to both private hire drivers and dual licensed hackney carriage and private hire driver licensed drivers; it is not acceptable to claim that they do not apply to hackney carriage drivers when they are carrying out hackney carriage work since they are, at all times, working under a dual licence.
- 3.20.5 It could be argued that many of the requirements prescribed within the council's hackney carriage byelaws are effectively hackney carriage driver's licence conditions. The Council's byelaws were, however, enacted many years ago and do not therefore impose controls over many aspects of a driver's conduct when operating a hackney carriage vehicle. Amending byelaws is a complex and lengthy process with inherent restrictions. It is, accordingly, not proposed to seek such amendments as part of this review process.

3.20.6 It is considered that the conditions set out in Appendix D are reasonable, necessary and proportionate for all licensed drivers.

3.20.7 In accordance with the above, the penalty point system detailed in Appendix E is not a condition of licence. It is, however, a transparent and consistent method for assisting the Council to determine whether or not a driver meets the 'fit and proper person' test.

### 3.21 **Carriage of Assistance Dogs**

3.21.1 All licensed drivers must comply with the relevant requirements set out in sections 168 and 170 of the Equality Act 2010, which place duties on taxi and private hire drivers to carry assistance dogs and allow them to remain with their owner, and not charge any extra for doing so.

3.21.2 Additionally, all licensed drivers must make reasonable adjustments to accommodate disabled users, including those with vision loss, for example by assisting with entry into the vehicle and ensuring they do not discriminate.

3.21.3 Drivers who have a medical condition that is aggravated by exposure to dogs may apply to the licensing authority for an exemption from these duties on medical grounds. On production of suitable medical evidence from the driver's own registered General Practitioner (GP), a certificate of exemption will be issued to the driver and the nominated vehicle. This must be displayed in the vehicle at all times the driver is working. Unless the certificate of exemption is available in the vehicle, the exemption will not apply.

### 3.22 **Disability Awareness**

3.22.1 Licence holders provide a public service and have a duty of care to all customers. To reinforce this, drivers are required, by condition, to attend an approved Disability Awareness session and pass an associated test to demonstrate a satisfactory understanding of the matters covered. Full details will be specified and maintained on the Council's [driver licence webpages](#). The training must be completed by applicants at the time of applying.

### 3.23 **Professional Qualifications**

3.23.1 Whilst it is currently not a mandatory requirement for existing or prospective drivers to obtain a professional qualification, for example, the Level 2 Certificate in Introduction to the Role of the Professional Taxi and Private Hire Driver, the Council would encourage them to do so to support and enhance their knowledge and understanding and facilitate a better customer experience.

## 4. **Private Hire Operators**

### 4.1 **General Provisions**

4.1.1 The primary objective in licensing private hire operators is the safety of the public, both in the vehicles and at the operators' premises.

4.1.2 Any person who wishes to operate a private hire service utilising one or more private hire vehicles must apply to the Council for a private hire operator's licence.

- 4.1.3 Individual hackney carriage drivers operating under their own or a trading name as a sole trader are not required to hold a private hire operator's licence.
- 4.1.4 A private hire vehicle may only be dispatched to a customer by a private hire operator who holds an operator's licence. Such a licence permits the operator to make provision for the invitation or acceptance of bookings for a PHV.
- 4.1.5 A private hire operator must ensure that every private hire vehicle is driven by a person who holds a private hire driver's licence.
- 4.1.6 All three licences (private hire operator's licence; private hire driver's licence; private hire vehicle licence) must be issued by the same licensing authority.
- 4.1.7 Notwithstanding the licensed vehicle conditions specified in Appendix B, operators may only advertise their business under the operating name specified on their licence.

#### 4.2 **Application Procedures and Fees**

- 4.2.1 Section 5 applies.

#### 4.3 **Determination of Applications**

- 4.3.1 Section 6 applies.

#### 4.4 **Grant and Renewal of Licences**

- 4.4.1 Section 7 applies.

#### 4.5 **Duration of Licences**

- 4.5.1 Private hire operator licences are granted for a period of five years; however, they may be issued for a lesser period of time if in the opinion of the Council it is appropriate to do so. The Council will therefore routinely issue five-year licences but may grant a one-year licence where the applicant provides justification to the satisfaction of the Council as to why one should be granted at the time of submitting their application.
- 4.5.2 Private hire operator licences are issued for operators with either five or less, or more than five, private hire vehicles. Applicants will therefore need to select the correct option when submitting their application based on the number of private hire vehicles that they have, or intend to have, on their books at the time of application. The licence, if granted, authorises private hire vehicles up to the number proposed and if an operator wishes to add to their fleet above that number a new operator's licence would have to be applied for.

#### 4.6 **Criminal Record Checks**

- 4.6.1 As with driver licensing, the objective in licensing private hire vehicle operators is to protect the public, who may be using operators' premises and trusting that the drivers and vehicles dispatched are above all else safe. It is important therefore that licensing authorities are assured that those that are granted a private hire operator licence also pose no threat to the public and have no links to serious criminal activity. Although private hire operators may not have direct contact with passengers, they are still entrusted to ensure that the vehicles and drivers used to carry passengers are

appropriately licensed and so maintain the safety benefits of the driver licensing regime.

- 4.6.2 Where an operator is a Medway-licensed driver, and they are registered with the DBS Update Service, an annual check will be made on their enhanced disclosure.
- 4.6.3 Private hire operators, who are not licensed drivers, cannot be required to produce an enhanced DBS disclosure. The national standards recommend however that licensing authorities should request a basic disclosure from the DBS and that subsequent checks are undertaken annually.
- 4.6.4 Where an operator is not a Medway-licensed driver, who is subject to the associated enhanced disclosure check requirements, the following provisions shall apply.
  - 4.6.4.1 All new applicants, who are not already Medway licensed drivers registered with the DBS Update Service, must provide a completed Basic DBS Check Certificate at the point of their initial application to the satisfaction of the council.
  - 4.6.4.2 All existing operators, who are not already Medway licensed drivers registered with the DBS Update Service, must provide a current (less than 3 month old) Basic DBS Check Certificate annually, on the anniversary of their licence start date. Any operator who fails to do so will be subject to suspension or other enforcement intervention as appropriate.
  - 4.6.4.3 Where an applicant or licence holder has spent an extended period (three or more continuous months) outside the UK, a Certificate of Good Conduct will also be required in accordance with sections 3.11.16 to 3.11.19 inclusive.
- 4.6.5 Where the applicant is a company or partnership, these requirements shall apply to all directors, partners, and secretaries.
- 4.6.6 A reference covering, for example, all applicants' financial records and/or business history may also be required, as determined by the Council.
- 4.6.7 The council may, at any point throughout the duration of this Policy, specify (by way of updating the relevant sections of its website) the way in which applicants can/must apply for their DBS certificates (e.g. via a 3rd party). Applicants will continue to be responsible for all costs associated with this.

#### 4.7 **Right to a Licence Checks**

- 4.7.1 From 1 December 2016, right to a licence checks became a mandatory part of the licensing regimes for taxis and private hire vehicles to better prevent illegal migrant working in this sector of the economy.
- 4.7.2 The new provisions, brought about by the Immigration Act 2016, mean that licensing authorities are prohibited from issuing driver and operator licences to anyone who is illegally present in the UK or not permitted to work in this sector.
- 4.7.3 All new applicants for operator licences must submit one or more of a number of specified original documents or a right to work check code to show that they are in the UK lawfully and permitted to work as an operator.
- 4.7.4 The [full list of approved original documents](#) can be accessed via our website.

- 4.7.5 Anyone who produces a specified document demonstrating that there are no restrictions on their ability to live and work in the UK will only need to do so once; provided the Council retains a copy of the document(s).
- 4.7.6 Anyone with limited permission to be, or work, in the UK will need to produce a specified document each time they apply to renew or extend their licence, until such time as there is no restriction on their permission to be or work in the UK.
- 4.7.7 If an applicant's immigration permission to be in the UK is time-limited to less than the statutory length for a driver or operator licence, the licence issued cannot be for a duration which exceeds that period.
- 4.7.8 The licence holder will need to provide documentation or a new check code which supports their right to continue living and working in the UK, before the licence is granted.
- 4.7.9 If the holder of a licence breaches UK immigration laws and commits an offence or receives a penalty, this will be grounds for the licensing authority to review, suspend or revoke a licence as set out in our Compliance and Enforcement Policy found in Appendix G.
- 4.7.10 If the Home Office cuts short or ends a person's immigration permission (referred to as curtailment or revocation), any licence that a person holds which was issued on or after 1 December 2016 will automatically lapse. In these circumstances, the holder of the licence must return their licence to the Council. They will be committing a criminal offence if they fail to do so, punishable on conviction by a fine.

#### 4.8 **Licence Conditions**

- 4.8.1 The Council can impose such conditions on an operator's licence as it considers reasonable, necessary and proportionate.
- 4.8.2 The Council's standard conditions are set out in Appendix F.

#### 4.9 **Record Keeping**

- 4.9.1 Operators must keep records in respect of all bookings, vehicles and drivers for a period of at least one year as set out in Appendix F and make them available to any authorised officer of the Council or a police officer upon request.

#### 4.10 **Sub-contracting**

- 4.10.1 Section 55A of the Local Government (Miscellaneous Provisions) Act 1976, inserted by the Deregulation Act 2015, permits operators licensed by the Council to sub-contract a private hire booking to another operator licensed by the Council or to any other licensed private hire operator holding a private hire licence granted by another local authority.
- 4.10.2 Operators who sub-contract a booking to, or accept a sub-contracted booking from, another operator must also record such bookings in accordance with the conditions set out in Appendix F.

#### **4.11 Insurance**

- 4.11.1 It is considered appropriate for the Council to check that appropriate public liability insurance has been taken out for premises that the public can have access to.
- 4.11.2 Before an application for a private hire operator's licence, where the trading address will be open to the public at any time, is granted, the applicant must produce evidence that they have taken out appropriate public liability insurance.

#### **4.12 Name and Address of Operator**

- 4.12.1 Upon grant of an operator's licence the Council will specify the address from which the operator may operate and the business name of the operator.
- 4.12.2 Notwithstanding the licensed vehicle conditions specified in Appendix B, operators should only advertise their business under the name and address shown on their licence.
- 4.12.3 In the event of an operator changing their personal and or business name and/or address they shall, within seven days of such change taking place, notify the Council and apply for an updated licence (if required) via the online form found on the Council's website.
- 4.12.4 In the event of an operator changing their business address, they will have to make an application for a new operator licence. You cannot transfer the office location of an operator licence.
- 4.12.5 The Council will not grant an operator's licence for an operator with an operating base that is outside the Council's area. This is to ensure that proper regulation and enforcement measures may be taken by the authority and is not intended to be a restraint of trade.
- 4.12.6 Planning consent may be required, and all applicants must ensure that they obtain all the correct and necessary permissions before trading.

#### **4.13 Equality**

- 4.13.1 Operators must familiarise themselves with all requirements placed upon them under the Equality Act 2010 and ensure that both they and their staff comply with them at all times.

#### **4.14 Safeguarding**

- 4.14.1 Section 3.9 applies in relation to operators as it does to drivers.

#### **4.15 Use of passenger carrying vehicles (PCV) licensed drivers**

- 4.15.1 PCV licensed drivers are subject to different checks from taxi and private hire vehicle licensed drivers as the work normally undertaken, i.e. driving a bus, does not present the same risk to passengers. Members of the public are entitled to expect when making a booking with a private hire vehicle operator that they will receive a private hire vehicle licensed vehicle and driver.
- 4.15.2 Conditions are therefore attached to operator licences to ensure that:

4.15.2.1 Customers are to be fully informed where a Public Service Vehicle (PSV) and/or PCV licensed driver will be required to fulfil their booking, and of the different checks PCV licensed drivers are subject to (i.e. that they are not required to have an enhanced DBS check), and

4.15.2.2 The informed consent of the customer is required before a driver who holds a PCV licence, and the use of a PSV are dispatched to undertake a private hire vehicle booking.

## 5. **Application procedures**

5.1.1 All applications must be submitted and paid for using the Council's online forms.

5.1.2 Application procedures, guidance, requirements, fees and links to the online application forms for each type of licence can be accessed via the [Council's website](#).

5.1.3 Any information provided by an individual will only be used for purposes connected with their application. Information will only be further used or transferred to other organisations and individuals as the law permits or requires.

## 6. **Determination of Applications**

6.1.1 Only fully and properly completed applications, submitted using the Council's online forms that are accompanied by the requisite fee and satisfactory evidence of having met/completed the relevant eligibility criteria and application requirements, will be deemed as complete and processed/considered.

6.1.2 All complete applications will be determined on their individual merits and on a case by case basis in accordance with this policy.

6.1.3 The assessment, for all licence application types, will include, amongst other things, consideration being given as to whether the applicant is a fit and proper person to hold a licence, taking into account cautions, convictions, and fixed penalty notices, whether spent or unspent, and history as a licence holder/applicant, but only in so far as they are relevant to an application for a licence.

6.1.4 The Council will aim to process and determine complete licence applications within two weeks from the date of submission and contact applicants if any documentation/information appears to be missing/incorrect.

## 7. **Grant and Renewal of Licences**

7.1.1 The grant of a licence is conditional upon all eligibility and application requirements being satisfied and, in the case of driver and operator licence applications, there being no adverse information that would render the applicant not 'fit and proper' in the opinion of the Council.

7.1.2 All complete renewal applications should be submitted at least two weeks before the expiration of the applicants' current licence.

7.1.3 The Council will endeavour to remind existing licence holders of when their licence expires, and when any documentation is due, by email and/or text; however, the

onus to diarise this and submit their documentation and/or application(s) in good time ultimately and wholly rests with the applicant/licence holder.

- 7.2 If an application is received late the applicant may be unlicensed for a period of time during which they will be unable to work/operate/use their vehicle for licensable work.

## 8. **Fares**

- 8.1.1 To protect the fare paying public from overcharging, as well as to protect the drivers from complaints, the Council operates a [taxi fare tariff](#).
- 8.1.2 Taxi fares, set by the Council, are a maximum and can be negotiated downwards by the hirer.
- 8.1.3 Medway Council will review the taxi tariff in line with their Taxi Tariff Review Policy.
- 8.1.4 Fares can be negotiated prior to the commencement of the journey in both private hire vehicles and hackney carriages.
- 8.1.5 A table of the authorised fares will be provided to each hackney carriage licence holder, which must be kept in their vehicle(s) and made available upon request.
- 8.1.6 A hackney carriage driver must, if requested by the passenger, provide a written receipt for the fare paid.
- 8.1.7 The Guidance also recognises that there is a case for allowing any hackney carriage operators who wish to do so, to make it clear by advertising that they charge less than the maximum fare.
- 8.1.8 These requirements in relation to fares do not apply to private hire vehicles.

## 9. **Taxi Ranks**

### 9.1 **Ranks**

- 9.1.1 A number of ranks for hackney carriages have been designated within the Medway Council area. At the time of this policy being published, they are located at:

#### **Rochester**

Blue Boar Lane

Esplanade

Rochester Station

#### **Strood**

Station Road

#### **Chatham**

Richard Street

Ordnance Street

Pentagon, the Brook

### **Rainham**

Longley Road

### **Gillingham**

Railway Street

James Street

### **Twydall**

Twydall Green

## 9.2 **Waiting on Ranks**

- 9.2.1 It is an offence for any person to cause or permit any vehicle other than a hackney carriage to wait on any rank for hackney carriages. Drivers of hackney carriages may only wait on a rank whilst plying for hire or waiting for a fare; drivers who park on a rank and leave their vehicle unattended are committing an offence.
- 9.2.2 Drivers waiting at hackney carriage ranks are expected to do so in an orderly manner, remain in the vehicle, and proceed along the rank promptly and in order.

## 10. **Lost Property**

- 10.1 Due to limited resources, neither the police nor the Council accept lost property.
- 10.2 Drivers in possession of lost property are instead required to notify the Council's licensing team of their finding within 24 hours and hold on to the lost property for 14 days, during which they should make all reasonable attempts to reunite the owner with their property and must return it to its owner, or a person legitimately claiming it on their behalf, if the opportunity arises. If, after 14 days, the property has not been reclaimed, the driver may dispose of it in a legal and responsible manner.
- 10.3 Owners of lost property are therefore advised to contact the Council's Licensing Team and the driver and/or operator of the vehicle they travelled in as soon as possible after leaving their belongings in a licensed taxi or private hire vehicle.

## 11. **Fees**

- 11.1 The Guidance does not deal with the issue of licensing fees at all. It is, however, generally recognised that the fees set for all hackney carriage and private hire licences should be such as to ensure that the costs of the service, including the cost of issue and administration, will so far as possible be met from fee income.
- 11.2 It is, on the other hand, not lawful for the Council to seek to make a profit from licence fees that are within its discretion. In particular, with regard to the fees charged for hackney carriage and private hire vehicle and operator licences, the legislation provides that these should be sufficient to cover the costs of inspecting the vehicles, providing hackney carriage stands and administering the control and supervision of hackney carriages and private hire vehicles.
- 11.3 All locally set fees will be reviewed annually, or otherwise as required, as part of the budgetary process and licence holders will be notified of any changes.

## 12. **Payments**

- 12.1 All applications must be made using the online forms found within the taxi and private hire licensing pages of the Council's website, which require payment to be made using a debit or credit card at the time of submission.

## 13. **Refunds, Transfers and Duplicate Copies**

- 13.1 In the case of any licence where the licence holder surrenders their licence prior to the expiry date, the Council will make a refund in respect of the whole months of the unexpired portion of the licence, after deduction of the fee incurred for processing the application.
- 13.2 In common with most types of licence, an appropriate fee will be paid to cover the administrative costs associated with the transfer of a licence.
- 13.3 Where the Council receives a request for a duplicate or updated copy of any previously issued licence, an appropriate fee will apply to cover the associated costs.

## 14. **Disciplinary and Enforcement**

### 14.1 **Enforcement**

- 14.1.1 It is recognised that well-directed enforcement activity by the Authority benefits not only the public but also the responsible members of the hackney carriage and private hire trades. The DfT accepts that the resources devoted by licensing authorities to enforcement will vary according to local circumstances. They remind authorities, however, that it is desirable to ensure that hackney carriage and private hire enforcement effort is at least partly directed to the late night period, when problems such as touting tend most often to arise.
- 14.1.2 In pursuance of its objective to encourage responsible hackney carriage/private hire businesses, the Council will operate a firm but fair disciplinary and enforcement regime. With a view to balancing the promotion of public safety with the need to permit individuals to safeguard their livelihood without undue interference the Council will only intervene where it is necessary and proportionate to do so.
- 14.1.3 The Compliance and Enforcement Policy set out at Appendix G will be used to ensure that its enforcement effort is reasonable, transparent and well directed.

### 14.2 **Penalty Points System**

- 14.2.1 Whilst the operation of a successful hackney carriage and private hire vehicle service is important to the economic well-being of the Borough, it is equally important that the service provided by the trade is properly regulated in order to instil confidence in the travelling public who wish to use the service and ensure their safety.
- 14.2.2 The Council clearly has a responsibility to ensure that all drivers, owners and operators of vehicles adhere to minimum standards and to do this in a consistent and transparent manner. These standards are defined by legislation, guidance, policy, licence conditions, codes or byelaws adopted by the Council. Together they identify what is required of the trade and help to ensure that a consistent approach is taken by Council officers, in their application.

- 14.2.3 The Council has found that an effective means of applying the conditions is through a penalty points system. This acts as a first step in ensuring compliance with the conditions and serves as an “early warning” system to drivers and owners or operators who see fit to ignore their responsibilities or fail to meet the requirements of the conditions.
- 14.2.4 It is believed that the penalty points system has assisted the trade in maintaining its high standards. The penalty points system does not however compromise the Council’s ability to enforce breaches of statute or local conditions in the Courts or by way of other interventions should an offence or breach of policy warrant such action.
- 14.2.5 Details of the penalty points system can be found in Appendix E.

# **APPENDIX A**

## **VEHICLE CRITERIA**

### **1. Introduction**

- 1.1. Only vehicles which satisfy all criteria set out within this Appendix, and elsewhere within the policy, to the satisfaction of the council will be eligible to be licensed.
- 1.2. Some additional/alternative criteria apply to stretched limousines, which are contained within section 6 of this appendix.
- 1.3. Once licensed, vehicles must continue to meet these criteria and adhere to the vehicle licence conditions set out in Appendix B along with any other requirements contained within the policy in order to remain eligible to be licensed.
- 1.4. Exceptions to these criteria may be made in respect of vehicles which, in the council's opinion, have a special character or otherwise at the council's discretion; however, the council will not ordinarily depart from these requirements without exceptional and compelling reasons for doing so.
- 1.5. The council reserves the right to refuse/withhold/suspend/revoke a licence if it is of the opinion that any vehicle is unsuitable for its intended use; irrespective of whether these requirements are met.
- 1.6. Licence holders and prospective licence holders are strongly advised to seek advice and/or provisional approval from the council before purchasing a new vehicle or making any modifications to their vehicle(s).

### **2. Type Approval**

- 2.1. To ensure vehicle safety standards are met, all licensed vehicles must be certified by the [Vehicle Certification Agency](#) (VCA) to one of the standards listed below and be M1 classified i.e. built to be a passenger carrying vehicle:
  - 2.1.1. EC Whole Vehicle Type Approval
  - 2.1.2. UK Low Volume Type Approval
  - 2.1.3. Individual Vehicle Approval

### **3. Age**

- 3.1. Non-wheelchair accessible vehicles presented for first time licensing must be under 7 years old.
- 3.2. Purpose built and converted wheelchair accessible vehicles presented for first time licensing must be under 10 years old.
- 3.3. All references to age in this section are calculated from the date of first registration (internationally).

### **4. Design Requirements**

- 4.1. All vehicles must:

- 4.1.1. Be right hand drive.
- 4.1.2. Be constructed and designed for the carriage of between 4 and 8 passengers.
- 4.1.3. Comprise of forward or rear facing seats only, with the provision of a seatbelt for each passenger.
- 4.1.4. Be a family-sized saloon, estate, large hatchback or stretched limousine type vehicle with a least four side doors, or a purpose-built mini-bus, multi-purpose vehicle or WAV with at least 3 side doors, which is able to seat a minimum of four adult passengers in reasonable comfort and with sufficient headroom and legroom.
- 4.1.5. Be in excellent condition throughout (inside and outside, aesthetically, physically, structurally and mechanically) and in full working order.
- 4.1.6. Allow passenger doors to be readily opened from inside and outside the vehicle by one operation of the latch mechanism, provided that this condition shall not prevent doors being fitted with a child safety lock.
- 4.1.7. Have windows on both sides of all passenger compartments that can be easily and safely opened and closed by passengers whilst seated.
- 4.1.8. Provide sufficient means for two way communication between the driver and any passengers.
- 4.1.9. Have a fixed, non-detachable, hardtop roof.
- 4.1.10. Not have tinted/privacy glass unless it is included in the vehicle's standard manufacturing specification, complies with the Road Vehicles (Construction and Use) Regulations and is approved by the council. In all cases, glass that restricts all view into the passenger compartment will not be permitted.
- 4.1.11. Have adequate provision for carrying passenger luggage. Luggage must be suitably secured in place without obstructing any emergency exits. Estate, hatchback, and multi-purpose vehicles must be fitted with a guard-rail or manufacturer's specification compartment cover in order to prevent luggage stored in the boot from entering the rear passenger compartments.
- 4.1.12. Have not previously been an insurance 'write-off' other than a category N (previously category D) write off.

## **5. Standardisation**

- 5.1. Hackney carriages shall be a standard colour of white.
- 5.2. Private hire vehicles shall be any colour but white.
- 5.3. Hackney carriage top lights shall be fitted on the roof, centrally, at the front of the vehicle. The top light must be yellow and of streamline design 18" x 7" x 4.5" high, with 'MEDWAY COUNCIL' in the centre on the front and "FOR HIRE" on either side on a green square background. Vehicles with wheelchair accessibility to have one "FOR HIRE" square replaced with the disabled logo.
- 5.4. Hackney carriages shall have door signs.

- 5.4.1. The sign shall be 8.25 inches in height and between 12 and 18 inches wide.
- 5.4.2. The sign shall be securely and centrally placed on the front passenger and driver doors. The wording must include the word TAXI (in addition to the operator's name, where applicable).
- 5.4.3. The Medway Council logo shall be placed in the lower right-hand corner of the sign and shall measure 5.75" X 3" (145mm x 75mm). The logo will be set against a white background, and the supplier must obtain the logo from the Council's licensing team.
- 5.4.4. All lettering and numbers are to be of a contrasting colour to the door or background on which they appear.
- 5.4.5. The signs are to be easily read and should be clear, informative and unambiguous.
- 5.4.6. It is not permitted for the rear doors of vehicles to be used to display door signs.
- 5.4.7. Any door sign designed to comply with the above specifications shall be submitted to the Licensing Team for prior approval.

- 5.5. Private hire vehicles used solely for executive car hire, providing an executive service shall be exempt from the colour requirement.
- 5.6. Private hire vehicles used solely for home to school contracts shall be exempt from the colour requirement; Licence plates shall be of a different colour to that of full private hire or hackney carriages.
- 5.7. Private hire vehicles used solely by independent fee-paying schools that provide a transport service to staff and pupils on an ad hoc basis shall be exempt from the colour requirement.
- 5.8. Vehicles that do not meet the above criteria but have special characteristics, will be considered on their individual merits by the Licensing Manager, and, if necessary, the Licensing and Safety Committee.
- 5.9. Whilst the above criteria may have been complied with, a licence may nevertheless be withheld if the Council is of the opinion that the vehicle is unsuitable for public use.

## **6. Stretched Limousines**

- 6.1. All limousines require Individual Vehicle Approval. Further information is available on the [GOV.UK website](https://www.gov.uk).
- 6.2. An age limit will not ordinarily be applied to limousines.
- 6.3. Both left and right hand drive limousines will be considered for private hire licensing.
- 6.4. Sideways facing seating will be permitted in limousines providing that it conforms to all relevant road traffic vehicle legislation.
- 6.5. There is no restriction to the level of tint for glass windows in the passenger compartment. However, for the safety of passengers, tinted glass in the windscreen

and front doors must comply with the Road Vehicles (Construction and Use) Regulations.

**7. Emission Standards**

- 14.1 All vehicles, other than stretched limousines and Wheelchair Accessible Vehicles, must meet or exceed the Euro 6 emission standards.

# **APPENDIX B**

## **LICENSED VEHICLE CONDITIONS**

### **1. Introduction**

- 1.1 All licensed proprietors and drivers must ensure their licensed vehicles comply with these conditions (as applicable), meet the criteria set out in Appendix A, and any requirements set out elsewhere in the policy to the satisfaction of the council.
- 1.2 Failure to do so is likely to result in enforcement action being taken as set out within the Taxi and Private Hire Enforcement Policy against the proprietor and/or driver as considered appropriate by the council.
- 1.3 Licence holders and prospective licence holders should seek advice and/or approval from the council in relation to any matters not addressed within these specifications before purchasing a new vehicle or making any modifications to their vehicle(s).

### **CONDITIONS THAT APPLY TO ALL LICENSED VEHICLES:**

### **2. General Fitness and Maintenance Requirements**

- 2.1 All parts of the vehicle shall be kept in a safe, tidy and clean condition, and in good working order, and all relevant statutory requirements (including in particular those contained in the Road Vehicles (Construction and Use) Regulations, as amended) in force shall be fully complied with at all times when the vehicle is in use or available for hire.
- 2.2 All vehicles must, at all times, be kept at or above the standard required to pass an MOT test annually and pass a 6 month interim test every 6 months starting from the one year anniversary of their (international) date of first registration.

### **3. Radio Equipment**

- 3.1 If two-way equipment is provided in the vehicle, it must be in a position approved by the council and maintained in a sound condition.
- 3.2 The licence holder shall not at any time use or permit to be used in the vehicle a radio scanner or citizen band radio.

### **4. Identification Plates**

- 4.1 The authorised identification plates issued by the council must be affixed to the vehicle, to the satisfaction of the council, as follows:
  - 4.1.1 The large external plate must be securely fixed in a conspicuous position externally on the rear of the vehicle; plates are not allowed within the rear window or to be hung.
  - 4.1.2 The small interior plate must be securely fixed to the inside of the vehicle, on the left hand side of the front windscreen or other such place as the council may reasonably require where it can be easily seen by passengers whilst travelling and/or when approaching a vehicle from in-front of it.

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

## **5. Dual Plating**

- 5.1 Vehicles licensed by Medway Council are not permitted to be simultaneously licensed by another authority. This is because a vehicle is unlikely to comply with the requirements of two separate licensing authorities, could cause confusion to members of the public, and impede the council's ability to take enforcement action.

## **6. Lost, Stolen or Damaged Licence Parts**

- 6.1 The proprietor shall report the loss, theft or damage of any vehicle licence, plate or letter of exemption to the council, and apply for a replacement of those items, by way of submitting an application and paying the associated fee using the appropriate [online form](#) found on the council's website within 24 hours of them becoming aware of the loss, theft or damage.
- 6.2 No vehicle licence, plate or letter of exemption shall be parted with, lent or used on any other vehicle.

## **7. Change of Details**

- 7.1 In the event of a proprietor changing their name and/or address, or their vehicle registration or permitted number of passengers, they shall, within seven days of such change taking place, notify the council and apply to update their licence/plates (as required) via the [online form](#) found on the council's website.

## **8. Complaint/Compliment Details**

- 8.1 Signage and/or documentation, etc. provided by the council detailing the way(s) in which passengers can make a complaint or compliment to the council must be displayed and made available to passengers as specified by the council.

## **9. Fittings**

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

## **10. Alteration of Vehicle**

- 10.1 No material alteration or change in the specification, design, condition or appearance of any licensed vehicle shall be made without the approval of the council.

## **11. Disability Access**

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

- 11.1.2 Wheelchair internal anchorage must be of the manufacturer's design and construction and secured in such a position as to not obstruct any emergency exit.
- 11.1.3 A suitable restraint must be available for the occupant of a wheelchair.
- 11.1.4 Access ramps or lifts to the vehicle must be securely fixed prior to use, and be able to support the wheelchair, occupant and helper.
- 11.1.5 Ramps and lifts must be securely stored in the vehicle before it may move off.
- 11.2 Any equipment fitted to the vehicle for the purpose of lifting a wheelchair into the vehicle must have been tested in accordance with the requirements of the Lifting Operations and Lifting Equipment Regulations 1998 (S.I. 1998/2307). Any such equipment must be maintained in good working order and be available for use at all times.
  - 11.2.1 Test certification must be made available to an authorised officer of the council upon request.
  - 11.2.2 Equipment must not be removed from a vehicle which is wheelchair accessible which would render the vehicle incapable of carrying wheelchair bound passengers.

## **12. Smoking**

- 12.1 Licensed vehicles must display:
  - 12.1.1 At least one no-smoking sign facing outwards on each side of the vehicle (but ideally on all passenger doors) in prominent positions where they can be easily seen by those considering entering the vehicle via any passenger door and, either;
  - 12.1.2 At least one no-smoking sign facing inwards on each side of the vehicle to remind passengers, once inside the vehicle, that smoking is prohibited within it, or
  - 12.1.3 At least one no smoking sign facing inwards from the front of the vehicle, i.e. the dashboard or windscreen area, in plain view of passengers.
  - 12.1.4 Requirements 12.1.1 and 12.1.2 may be satisfied by using double sided stickers on all passenger windows.
- 12.2 The signs must be clearly visible and contain the no-smoking symbol (an image of a cigarette and smoke in a prohibition circle of at least 40mm diameter with a line diagonally crossed through). The words 'No smoking' or other words to that effect may also be included but are not required.
- 12.3 No smoking or vaping/using e-cigarettes is permitted in the vehicles at any time.

## **13. Animals**

- 13.1 No animals, other than bona fide assistance dogs (see section 3.21 of the main policy document) or animals owned by bona-fide fare paying passengers with the agreement of the driver, shall be carried in or on any licensed vehicle whilst the vehicle is so engaged under the terms of its licence.

**14. Advertising**

- 14.1 Unless express written consent is given by the Council, commercial advertising is not permitted on licensed vehicles except for the name, logo, telephone number and/or other contact details of the hackney carriage owner or private hire operator of the vehicle. All such advertising must be to the satisfaction and approval of the Licensing Manager.

**15. CCTV**

- 15.1 The installation and operation of all CCTV systems must comply with the ICO's Code of Practice for Surveillance Cameras and Personal Information (or subsequent amendments or replacements), which sets out their recommendations on how the legal requirements of the Data Protection Act 1998 (DPA) can be met.

**16. Passenger Capacity**

- 16.1 The proprietor of the vehicle shall not permit more than the number of persons for which the vehicle is licensed to be conveyed in the vehicle; regardless of the age or size of the passengers (thereby including babies carried in arms).

**17. Accident Reporting**

- 17.1 In accordance with section 50(3) of the Local Government (Miscellaneous Provisions) Act 1976, any accident involving a licensed 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 72 hours of the accident. This must be done in writing via email.

**ADDITIONAL CONDITIONS THAT APPLY TO HACKNEY CARRIAGES:**

**18. Taximeters**

- 18.1 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.
- 18.2 All taximeters must be appropriately stamped to ensure compliance with The Measuring Instruments (Taximeters) Regulations 2006, or any subsequent legislation.
- 18.3 When a taxi meter is programmed to record a new table of fares, action must be taken at that time to ensure that it is impossible to record on the face of the meter any table of fares other than that currently in force.
- 18.4 All taximeters must be positioned so that the display on the face of the meter can be clearly visible to all passengers at all times, and the dial of the taximeter shall be kept properly illuminated throughout any part of the hiring.
- 18.5 The taximeter shall be brought into operation at the commencement of a journey, i.e. after all customer(s) are safely seated inside the vehicle, and the fare demanded by the driver shall not be greater than that fixed by this council in connection with the fare tariff for the hire of hackney carriages.

- 18.6 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 that journey.
- 18.7 In the event of a journey commencing in but ending outside the area covered by Medway Council, there may be charged for the journey such fare as was agreed before the hiring was effected. If no such agreement was made, then the fare to be charged must be no greater than that fixed by the council in connection with the fare tariff for the hire of hackney carriages.

**19. Roof Sign**

- 19.1 All hackney carriage vehicles, except those with built-in roof signs, must be fitted with an illuminated roof-mounted sign indicating that they are a hackney carriage.
- 19.2 The sign must be fitted externally to the roof in a position, and of a size and type as specified in Appendix A.
- 19.3 The sign must be illuminated when the vehicle is available for hire and unilluminated when it is not, i.e. when the machinery of the taximeter is in action.
- 19.4 The sign must be fitted at all times, irrespective of whether the vehicle is carrying out a private hire booking, as the vehicle is still a hackney carriage at all times.
- 19.5 The roof sign may be removed while the vehicle is being used in connection with a funeral, a wedding or other similar special occasion.

**20. Fare (Tariff) Table**

- 20.1 A copy of the [council's taxi fare table](#) must be kept in the cabin of the vehicle at all times and provided to passengers upon request. The fare table must be printed in a size no smaller than A5, not be altered in any way, be clearly legible and kept in a sound and clean condition.

**ADDITIONAL CONDITIONS THAT APPLY TO PRIVATE HIRE VEHICLES  
(INCLUDING RESTRICTED PRIVATE HIRE VEHICLES):**

**21. Taximeter**

- 21.1 Private hire vehicles are not required to be fitted with a taximeter, but where a taximeter has been fitted, it must be of a type approved by the council.
- 21.2 Restricted Private Hire Vehicles are not permitted to be fitted with a taximeter.
- 21.3 Any taximeter with which the vehicle is provided shall be so constructed, attached and maintained as to comply with the following requirements: -
- 21.3.1 The taximeter shall not be fitted with a flag or other device bearing the words 'FOR HIRE'
- 21.3.2 The taximeter shall be fitted with a key or other device, the turning of which will bring the machinery of the taximeter into action and cause the word 'HIRED' to appear on the face of the taximeter.

- 21.3.3 Such key or device shall be capable of being locked in such a position that the machinery of the taximeter is not in action and no fare is recorded on the face of the taximeter.
- 21.3.4 When the machinery of the taximeter is in action there shall be recorded on the face of the taximeter, in figures clearly legible and free from ambiguity, a fare not exceeding the rate or fare which the proprietor or driver, is entitled to demand and take in pursuance of the table of fares approved by the council in that behalf for the hire of the vehicle by distance or by distance and time.
- 21.3.5 The word 'FARE' shall be printed on the face of the taximeter in plain letters so as to clearly apply to the fare recorded thereon.
- 21.3.6 The taximeter shall be so placed that all letters and figures on the face thereof may at all times be plainly visible to any person being conveyed in the vehicle and that for the purpose the letters and figures shall be suitably illuminated during any period of hiring.
- 21.3.7 The taximeter and all fittings thereof shall be so affixed to the vehicle with seals or other appliances that it shall not be practicable for any person to tamper with them except by breaking, damaging or permanently displacing the seals or other appliances.

## **22. Roof Signs and Markings**

- 22.1 In order to differentiate between the types of licensed vehicle, private hire vehicles and restricted private hire vehicles are not permitted to carry roof-mounted signs of any kind or display any markings that may give the impression that they are a hackney carriage, such as the words 'Taxi,' 'Hackney Carriage,' 'Cab,' 'Hire' or similar.

### **ADDITIONAL CONDITIONS THAT APPLY TO RESTRICTED PRIVATE HIRE VEHICLES ONLY:**

## **23. Use of Vehicle**

- 23.1 Unless specified otherwise in writing by the council, a restricted private hire vehicle with a green plate can only be used for carrying out contracted school runs through a Medway-licensed private hire operator and issued by the local education authority. A restricted private hire vehicle with a red plate can only be used in line with the restricted purpose as specified on the licence.

## **24. Identification Plates**

- 24.1 The council issued external plate shall only be displayed on the vehicle when it is being used for permitted journeys being carried out in accordance with section 23.

### **ADDITIONAL CONDITIONS THAT APPLY TO PRIVATE HIRE LIMOUSINES:**

## **25. Vehicle And Safety Equipment**

- 25.1 Stretched limousines and similar vehicles shall comply with the 'Conditions That Apply To All Licensed Vehicles' and the 'Additional Conditions That Apply To Private Hire Vehicles' in so far as they are not superseded by these additional conditions.

25.2 The Proprietor of a vehicle shall ensure that:

25.2.1 Loose luggage is not carried within the passenger compartment of the vehicle.

25.2.2 Any CCTV cameras installed in the vehicle have received prior written approval of the council and proprietors must display a council approved sign, in a position clearly visible to passengers, warning customers that camera surveillance equipment may be in operation.

## **26. Use Of Vehicle**

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

26.1.1 Ensure that the vehicle is at all times only driven by a person who holds a valid private hire driver's licence issued by Medway Council.

26.1.2 Not allow any passengers in the front compartment of the vehicle; the maximum number of passengers permitted as specified in 4.1.2 of Appendix A does not therefore include the front passenger seat(s) of a limousine.

26.1.3 Ensure that any advertisement publicising their limousine service contains a statement that the vehicle is only licensed to carry a maximum of eight passengers.

26.1.4 Not supply any alcohol in the vehicle unless an appropriate authorisation under the Licensing Act 2003 permitting the sale or supply of the same is in force.

26.1.5 Not allow alcohol in the vehicle for consumption or otherwise (when it is authorised) when passengers below the age of 18 are present.

26.1.6 Ensure that any glassware in the vehicle is made of shatterproof glass or plastic.

26.1.7 Ensure that the driver does not play or permit the performance of any media that, given its age classification or content, is unsuitable for the age of the youngest passengers in the vehicle.

26.1.8 Ensure that any relevant authorisation required for entertainment under the Licensing Act 2003 is in place prior to any such entertainment being provided.

26.1.9 Display and maintain any notices in conspicuous positions when directed to do so by the council.

## **27. Vehicle Identification**

27.1 The vehicle will not be required to display the rear, external private hire vehicle licence plates which must normally be displayed by licensed private hire vehicles.

27.2 The proprietor of the vehicle will be issued, upon grant of the licence, with:

27.2.1 The paper vehicle licence, which must be kept in the vehicle and made available for inspection to an authorised officer of the council or police upon request.

27.2.2 A letter confirming their exemption from displaying an external plate, which must be kept in the vehicle and made available for inspection to an authorised officer of the council or police upon request, and

27.2.3 An interior plate which must be kept and displayed in accordance with 4.1.2 of this appendix.

**28. Signs, Notices, etc.**

28.1 No signs, notices, advertisements, plates, marks, numbers, letters, figures, symbols, emblems or devices whatsoever shall be displayed on, in or from the vehicle, other than those specifically approved by the council.

**29. Deposit Of Licences**

29.1 If the proprietor permits or employs any other person to drive their private hire limousine vehicle, they shall, before that person commences to drive the vehicle, require the driver to provide them with a copy of their Medway Council issued private hire driver's licence for retention until such time as the driver ceases to be permitted or employed to drive that vehicle.

**30. Individual Vehicle Approval**

30.1 The proprietor must produce a copy of the Individual Vehicle Approval certificate to the council upon request or as may be required by them.

## APPENDIX C

### GUIDELINES RELATING TO FITNESS AND PROPRIETY

#### 1. General

- 1.1 The purpose of this appendix is to provide guidance on the criteria taken into account by the council when determining whether or not an applicant or an existing licence holder is a fit and proper person to hold a hackney carriage and/or private hire driver licence, hackney carriage and/or private hire vehicle licence, and private hire operator licence in relation to convictions.
- 1.2 Applicants and existing licensed drivers should note that they must be, and remain, a fit and proper person at all times; not only when they are acting in the capacity as a licensed driver.
- 1.3 The onus is on the applicant to demonstrate that they meet this requirement; not on the council to demonstrate that the applicant does not.
- 1.4 In the absence of a judicially approved definition of 'fit and proper', the council will apply the test of:

*Without any prejudice, and based on the information before you, would you allow a person for whom you care, regardless of their condition, to travel alone in a vehicle driven by this person at any time of day or night?*

The wording of this test originates from the national standards.

- 1.5 All decisions on the suitability of an applicant or licensee can take into consideration conduct that has not resulted in a criminal conviction and will be made on the balance of probability. Applicants and licence holders will not be 'given the benefit of doubt'.
- 1.6 If, on the balance of probabilities, the answer to the question set out in 1.4 is 'no', then the council will ordinarily take the view that the individual should not hold a licence.
- 1.7 The overriding consideration is the safety of the public. In accordance with the cases of *McCool v Rushcliffe Borough Council* and *Leeds City Council v Hussain*, the council will therefore expect applicants and existing licence holders alike to demonstrate, "...that they are safe drivers with good driving records and adequate experience, sober, mentally and physically fit, honest and not persons who would take advantage of their employment to abuse or assault passengers," as part of its assessment of fitness and propriety.
- 1.8 In addition, the council will want to be satisfied that a licensed driver/proprietor/operator will not defraud, discriminate against or otherwise act inappropriately towards or in front of their customers, i.e. the public.
- 1.9 It should be borne in mind that drivers may carry vulnerable members of the public such as unaccompanied children; disabled people; elderly people; people who are incapacitated from alcohol or other substances; lone people and foreign visitors or others with communication difficulties.
- 1.10 If a court has found an applicant guilty of an offence, that person cannot subsequently claim to the council that they did not commit the offence. If they

seek to do so, their representation will not be considered as this is entirely a matter for the courts. The applicant can, however, offer any mitigating circumstances relating to the offence that they wish the council to consider.

- 1.11 In making its decision the council will consider, amongst other matters, the nature/class of any offence, how long ago it occurred and the applicants' age at that time, the apparent seriousness as gauged by the penalty imposed, and any other factors which the council may consider to be relevant.
  - 1.12 The disclosure of cautions, convictions or other information will not permanently debar individuals from gaining a licence unless the authority considers that this renders them unsuitable. The council will however require applicants with a criminal record to remain free of conviction for an appropriate period and show adequate evidence of good character from the time of the conviction, the end of a sentence and/or the end of an associated rehabilitation course; simply remaining free of conviction will not generally be regarded as sufficient evidence of good character.
  - 1.13 In the sections that follow, guidance is given as to when a licence may and may not be granted following the disclosure of various convictions, in terms of whether and when a person with such convictions may be eligible for a licence. In general terms, the more recent, serious and/or relevant to public safety the offence is, the less likely it is that a licence will be granted.
  - 1.14 In particular, applications may be refused where the applicant's record includes any term of imprisonment or custody; any conviction in relation to a violent or sexual offence, or dishonesty, which is of a serious nature; any serious motoring offence such as dangerous driving, driving whilst disqualified, or drink driving, or the accumulation of more than six current points on a DVLA driving licence.
  - 1.15 Notwithstanding the existence of this policy, each case will be determined on its own merits.
  - 1.16 Compliance with the guidelines contained within this Appendix does not therefore guarantee that a licence will be granted. The grant of a licence will be less likely when there are aggravating factors, such as multiple offences. Similarly, however, some discretion may be appropriate if there are mitigating circumstances.
  - 1.17 Since it is not practicable to make reference to every offence, the following examples afford a general guide that the council will have regard to when considering an applicant's convictions.
  - 1.18 In all cases, any lists of offences are not exhaustive and include any similar offences to those listed, including those in relation to attempting or conspiring to commit, and any offences which replace those listed.
  - 1.19 In considering whether or not a person is fit and proper the council may also consider such matters as an applicant's history as a licence holder, their complaint and compliance history, their co-operation with and attitude towards Licensing Officer's requests, and any other reasonable matters.
- 2. Existing licence holders**
- 2.1 Any existing licence holder convicted of an offence during the period of their current licence will be subject to this policy relating to the relevance of convictions.

In circumstances where a new applicant would normally have their application refused, an existing licence holder would normally have their licence revoked.

- 2.2 Licence holders who are convicted of any criminal or motoring offence during the period covered by their licence, must disclose the conviction and the penalty involved to the council in writing via email within 48 hours of the conviction(s). For these purposes, any offence resulting in the acceptance of a fixed penalty notice will be considered to be a conviction. The exception to this is a parking ticket, which is in fact a penalty charge notice.

### **3. Crimes resulting in death**

- 3.1 Where an applicant or licensee has been convicted of a crime which resulted in the death of another person or was intended to cause the death or serious injury of another person, they will not be licensed.

### **4. Exploitation**

- 4.1 Where an applicant or licensee has been convicted of a crime involving, related to, or has any connection with abuse, exploitation, use or treatment of another individual irrespective of whether the victim or victims were adults or children, they will not be licensed. This includes slavery, child sexual abuse, exploitation, grooming, psychological, emotional or financial abuse, but this is not an exhaustive list.

### **5. Offences involving violence**

- 5.1 Where an applicant has a conviction for an offence of violence against the person, or connected with any offence of violence, a licence will not be granted until at least 10 years have elapsed since the completion of any sentence imposed.
- 5.2 A licence will not normally be granted if an applicant has more than one conviction for a violence-related offence.

### **6. Possession of a weapon**

- 6.1 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.

### **7. Sexual offences**

- 7.1 Where an applicant has a conviction for any offence involving or connected with illegal sexual activity, a licence will not be granted.
- 7.2 In addition to the above, the licensing authority will not grant a licence to any applicant who is currently on the Sex Offenders Register or on any barred list.

### **8. Offences of Dishonesty**

- 8.1 Where an applicant has a conviction for any offence where dishonesty is an element of the offence, a licence will not be granted until at least seven years have elapsed since the completion of any sentence imposed.

8.2 A licence will not normally be granted if an applicant has more than one conviction for a dishonesty-related offence.

8.3 Applicants or existing licence holders that are found to have intentionally misled the council, or lied as part of the application process, will not be issued with a licence and may be subject to formal action relating to the making of a false declaration.

## **9. Drink driving/driving under the influence of drugs**

9.1 Where an applicant has a conviction for drink driving or driving under the influence of drugs, a licence will not be granted until at least seven years have elapsed since the completion of any sentence or driving ban imposed.

9.2 In the case of driving under the influence of drugs, any applicant may also have to undergo drugs testing at their own expense to demonstrate that they are not using controlled drugs.

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

## **10. Drunkenness (not in charge of a motor vehicle)**

10.1 An isolated conviction for drunkenness not associated with driving will not automatically preclude the granting of an application.

10.2 Where there is an isolated conviction for drunkenness, any licence granted will normally be issued together with a warning.

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

## **11. Drugs**

11.1 Where an applicant has any conviction for, or related to, the supply of drugs, or possession with intent to supply or connected with possession with intent to supply, a licence will not be granted until at least 10 years have elapsed since the completion of any sentence imposed.

11.2 Where an applicant has a conviction for possession of drugs, or related to the possession of drugs, a licence will not be granted until at least five years have elapsed since the completion of any sentence imposed.

11.3 In these circumstances, any applicant may also have to undergo drugs testing for a period at their own expense to demonstrate that they are not using controlled drugs.

11.4 Applicants will normally be required to show a period of at least 5 years free from taking drugs and/or after detoxification treatment if they were an addict.

11.5 A licence will not normally be granted if an applicant has more than one conviction for a drug related offence.

## **12. Discrimination**

- 12.1 Where an applicant has a conviction involving or connected with discrimination in any form, a licence will not be granted until at least seven years have elapsed since the completion of any sentence imposed.

## **13. Using a hand-held device whilst driving**

- 13.1 Where an applicant has a conviction for using a held-hand mobile telephone or a hand-held device whilst driving, a licence will not be granted until at least five years have elapsed since the conviction or completion of any sentence or driving ban imposed, whichever is the later.

## **14. Motoring Convictions**

- 14.1 A single occurrence of a minor traffic offence would not necessarily prohibit the granting, or necessitate the revocation, of a licence; however:
- 14.1.1 Applicants with multiple motoring convictions may indicate that an applicant has a disregard for Road Traffic Regulations and/or does not exhibit the behaviours of a safe road user and one that is suitable to drive professionally.
- 14.1.2 A motoring conviction obtained by a licensed driver may indicate that the licensee does not take their professional responsibilities seriously.
- 14.2 Motoring convictions that relate to other types of offence referred to within this appendix, e.g. those relating to dishonesty/theft, violence, drunkenness, etc. may be subject to the guidelines provided in those sections instead of, or in addition to, those provided in this section.
- 14.3 A list of minor and major motoring offences, as determined by the council can be found in Table 1 and Table 2, respectively, below.
- 14.4 Minor traffic Offences
- 14.4.1 Isolated convictions for minor traffic offences should not prevent a person from proceeding with an application; however, the number, type and frequency of this type of offence will be taken into account and if there are more than one, the applicant will normally be expected to show a period free of conviction of at least 6 months.
- 14.4.2 In particular, an application will normally be refused where the applicant has more than 6 penalty points on their DVLA licence (whether or not the applicant was convicted by a court for the offences for which the points were imposed) or where the applicant has more than one conviction for this type of offence within the last 6 months.
- 14.5 Major Traffic Offences
- 14.5.1 An isolated conviction for a major motoring offence within the last 2 years will ordinarily result in an application being refused.
- 14.5.2 More than one conviction for a major motoring offence within the last 5 years will ordinarily result in an application being refused.

- 14.6 Disqualification
- 14.6.1 In all cases not already dealt with elsewhere within this appendix, the council will normally refuse an application from an applicant disqualified from driving by the courts (e.g. following conviction of a motoring offence or the “totting up” procedure) until a period of two years conviction free has elapsed from the restoration of their DVLA licence.
- 14.6.2 In order to provide a consistent level of protection to the public, the council will also normally refuse an application from an applicant who avoids disqualification by demonstrating exceptional circumstances (such as hardship) to the court, until a period of two years conviction free has elapsed from the date the court made its finding of exceptional circumstances justifying the non-disqualification.
- 14.7 Applications from applicants with a significant history of driving offences are likely to be refused.

## **15. Motor Insurance Offences**

- 15.1 An isolated motor insurance offence will not automatically preclude an application from being granted, however the council deem such offences to be serious, given the risk to the public.
- 15.2 More than one conviction for motor insurance offences will be considered to raise serious doubts as to an applicant’s suitability to hold a licence. Ordinarily in these circumstances, an application will be refused until such time as the applicant has been free of convictions for a minimum period of 5 years or until at least 3 years have elapsed since the restoration of the applicant’s DVLA driving licence (whichever is longer).

## **16. Offences under the Town Police Clauses Act 1847 and Part II of the Local Government (Miscellaneous Provisions) Act 1976**

- 16.1 One of the main purposes of the licensing regime set out in the Town Police Clauses Act 1847 and Part II of the Local Government (Miscellaneous Provisions) Act 1976 (“the Acts”) is to ensure the protection of the public. For this reason, a serious view is taken of convictions for offences under the Acts when deciding whether an applicant is to be treated as a fit and proper person to hold a licence.
- 16.2 In particular, an applicant will normally be refused a licence where they have been convicted of an offence under either of the Acts at any time during the 12 months preceding the application or have more than one conviction within the last 3 years preceding the date of the application.

## **17. Outstanding Charges or Summonses**

- 17.1 Where an individual is the subject of an outstanding charge or summons that relates to an offence which, if convicted of, would ordinarily preclude them from being granted a licence, their application will not ordinarily be processed until the conclusion of the proceedings.

## **18. Principles of The Rehabilitation of Offenders Act 1974**

- 18.1 Under this Act, criminal convictions can become spent after a certain period of time and once spent, can be disregarded completely for many purposes. The

possibility of rehabilitation, and the length of time before the rehabilitation occurs, depends on the sentence imposed rather than the offence committed.

- 18.2 Despite the above general principles, the Act does not apply to applicants for hackney carriage and private hire driver licences. This is because the driving of these vehicles is listed as a “regulated occupation” under The Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (as amended by The Rehabilitation of Offenders Act 1974 (Exceptions) (Amendment) Order 2002) in relation to which questions may be asked as to the suitability of individuals to be granted a licence.
- 18.2.1 Applicants for licences and existing licence holders are therefore required to disclose all convictions and cautions, past and present/pending, including those that would previously been regarded as spent under the 1974 Act.
- 18.3 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 will only be considered 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.
- 18.4 The council may choose to refer to the Rehabilitation of Offenders Act 1974 as part of its assessment of convictions. Where the council does so, any convictions that are not yet spent under the Act may increase the impact of the offence in the council’s decision-making and consequently reduce the likelihood of a licence being granted.
- 18.5 Further information is available from the Government’s Guidance on the Rehabilitation of Offenders Act 1974.

## **19. Non-Conviction Information**

- 19.1 If an applicant has, on more than one occasion, been arrested or charged, but not convicted for a serious offence which suggests that he/she could be a danger to the public, consideration will be given to refusing the application; bearing in mind the safety of the travelling public must be the paramount concern.

## **20. Licensee self-reporting**

- 20.1 A failure by a licence holder or applicant to disclose something, which they ought to have done might be seen as behaviour that questions honesty and therefore the suitability of the individual to hold a licence.

## **21. Cautions**

- 21.1 Admission of guilt is required before a Caution can be issued.
- 21.2 For the purpose of these guidelines formal cautions shall be treated as though they were convictions and must be disclosed.

## **22. Summary**

- 22.1 Except in the most serious of circumstances, an applicant having a previous or current conviction will not normally be permanently precluded from obtaining a licence.

- 22.2 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.
- 22.3 The council consider that there are, however, certain offences that are so serious in nature or frequency that an applicant should be precluded from obtaining or retaining a licence. The council's overriding policy objective is to protect the safety of the general public by ensuring that all licensed drivers are safe, competent, trustworthy and able to maintain their vehicles to an acceptable standard.
- 22.4 By producing clear and transparent guidelines on the relevance of convictions, and fitness and propriety, the council is seeking to maintain the high standard of licensed drivers and operators within Medway.

**Table 1: MINOR TRAFFIC OFFENCES**

<b>Code</b>	<b>Offences (Includes: Aiding, abetting, counselling, procuring, causing, permitting or inciting any of the offences below)</b>	<b>DVLA Penalty points</b>
CU10	Using a vehicle with defective brakes	3
CU20	Causing or likely to cause danger by reason of use of unsuitable vehicle or using a vehicle with parts or accessories (excluding brakes, steering or tyres) in a dangerous condition	3
CU30	Using a vehicle with defective tyre(s)	3
CU40	Using a vehicle with defective steering	3
CU50	Causing or likely to cause danger by reason of load or passengers	3
CU80	Breach of requirements as to control of the vehicle, such as using a mobile phone	3 to 6
MS10	Leaving a vehicle in a dangerous position	3
MS20	Unlawful pillion riding	3
MS30	Play street offences	2
MS60	Offences not covered by other codes (including offences relating to breach of requirements as to control of vehicle)	3
MS70	Driving with uncorrected defective eyesight	3
MS80	Refusing to submit to an eyesight test	3
MS90	Failure to give information as to identity of driver etc	6
MW10	Contravention of special roads regulations (excluding speed limits)	3
PC10	Undefined contravention of pedestrian crossing regulations	3
PC20	Contravention of pedestrian crossing regulations with moving vehicle	3
PC30	Contravention of pedestrian crossing regulations with stationary vehicle	3
SP10	Exceeding goods vehicle speed limits	3 to 6
SP20	Exceeding speed limit for type of vehicle (excluding goods or passenger vehicles)	3 to 6
SP30	Exceeding statutory speed limit on a public road	3 to 6
SP40	Exceeding passenger vehicle speed limit	3 to 6
SP50	Exceeding speed limit on a motorway	3 to 6
TS10	Failing to comply with traffic light signals	3
TS20	Failing to comply with double white lines	3

<b>Code</b>	<b>Offences (Includes: Aiding, abetting, counselling, procuring, causing, permitting or inciting any of the offences below)</b>	<b>DVLA Penalty points</b>
TS30	Failing to comply with 'stop' sign	3
TS40	Failing to comply with direction of a constable/warden	3
TS50	Failing to comply with traffic sign (excluding 'stop' signs, traffic lights or double white lines)	3
TS60	Failing to comply with a school crossing patrol sign	3
TS70	Undefined failure to comply with a traffic direction sign	3

**Table 2: MAJOR TRAFFIC OFFENCES**

<b>Code</b>	<b>Offences (Includes: Aiding, abetting, counselling, procuring, causing, permitting or inciting any of the offences below)</b>	<b>DVLA Penalty points</b>
AC10	Failing to stop after an accident	5 to 10
AC20	Failing to give particulars or report an accident within 24 hours	5 to 10
AC30	Undefined accident offences	4 to 9
BA10	Driving while disqualified by order of court	6
BA30	Attempting to drive while disqualified by order of court	6
BA40	Causing death by driving while disqualified	3 to 11
BA60	Causing serious injury by driving while disqualified	3 to 11
CD10	Driving without due care and attention	3 to 9
CD20	Driving without reasonable consideration for other road users	3 to 9
CD30	Driving without due care and attention or without reasonable consideration for other road users	3 to 9
CD33	Causing serious injury by careless or inconsiderate driving	3 to 9
CD40	Causing death through careless driving when unfit through drink	3 to 11
CD50	Causing death by careless driving when unfit through drugs	3 to 11
CD60	Causing death by careless driving with alcohol level above the limit	3 to 11
CD70	Causing death by careless driving then failing to supply a specimen for alcohol analysis	3 to 11
CD80	Causing death by careless, or inconsiderate, driving	3 to 11
CD90	Causing death by driving: unlicensed, disqualified or uninsured drivers	3 to 11
DD10	Causing serious injury by dangerous driving	3 to 11
DD40	Dangerous driving	3 to 11
DD60	Manslaughter or culpable homicide while driving a vehicle	3 to 11
DD80	Causing death by dangerous driving	3 to 11
DD90	Furious driving	3 to 9
DR10	Driving or attempting to drive with alcohol level above limit	3 to 11
DR20	Driving or attempting to drive while unfit through drink	3 to 11
DR30	Driving or attempting to drive then failing to supply a specimen for analysis	3 to 11
DR31	Driving or attempting to drive then refusing to give permission for analysis of a blood sample that was taken without consent due to incapacity	3 to 11
DR61	Refusing to give permission for analysis of a blood sample that was taken without consent due to incapacity in circumstances other than driving or attempting to drive	10

<b>Code</b>	<b>Offences (Includes: Aiding, abetting, counselling, procuring, causing, permitting or inciting any of the offences below)</b>	<b>DVLA Penalty points</b>
DR40	In charge of a vehicle while alcohol level above limit	10
DR50	In charge of a vehicle while unfit through drink	10
DR60	Failure to provide a specimen for analysis in circumstances other than driving or attempting to drive	10
DR70	Failing to co-operate with a preliminary test	4
DG10	Driving or attempting to drive with drug level above the specified limit	3 to 11
DG60	Causing death by careless driving with drug level above the limit	3 to 11
DR80	Driving or attempting to drive when unfit through drugs	3 to 11
DG40	In charge of a vehicle while drug level above specified limit	10
DR90	In charge of a vehicle when unfit through drugs	10
IN10	Using a vehicle uninsured against third party risks	6 to 8
LC20	Driving otherwise than in accordance with a licence	3 to 6
LC30	Driving after making a false declaration about fitness when applying for a licence	3 to 6
LC40	Driving a vehicle having failed to notify a disability	3 to 6
LC50	Driving after a licence has been cancelled (revoked) or refused on medical grounds	3 to 6
MS50	Motor racing on the highway	3 to 11
UT50	Aggravated taking of a vehicle	3 to 11

## **APPENDIX D**

### **PRIVATE HIRE DRIVER LICENCE CONDITIONS**

#### **1. Introduction**

- 1.1 The holder of a restricted or standard private hire driver's licence, which in Medway includes dual licences, i.e. private hire and hackney carriage, (hereafter known in this Appendix as the driver) shall comply with the following conditions, which should be read in conjunction with the rest of the Hackney Carriage and Private Hire Licensing Policy.
- 1.2 Unless otherwise stated, all conditions listed within this Appendix shall therefore apply equally to Medway-licensed drivers.

#### **2. Conduct and Appearance of Driver**

- 2.1 The driver shall be respectably dressed, and clean and tidy in appearance, at all times whilst their vehicle is being used or made available for hire.
- 2.2 The driver shall behave in a civil, polite, helpful, orderly and responsible manner and shall take all reasonable steps to ensure the comfort, wellbeing and safety of persons conveyed in, or entering or leaving the vehicle.
- 2.3 The driver shall assist, where necessary, passengers' ingress to and egress from vehicles.
- 2.4 The driver shall drive with care and due consideration for other road users, pedestrians and their passengers.
- 2.5 A 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 as was agreed.
- 2.6 The driver when hired to drive to a particular destination shall proceed to that destination by the shortest available route.
- 2.7 The driver shall not consume alcohol at any time whilst driving or being in charge of a hackney carriage or private hire vehicle nor shall they drive whilst under the influence of alcohol whatsoever (*any amount of alcohol can affect a drivers' judgement*).
- 2.8 The driver shall not drive while having misused legal or illegal drugs (*any amount of drugs can affect a drivers' judgement*). If a driver properly uses prescription drugs that make them drowsy, they should not drive.
- 2.9 The driver shall not smoke in the vehicle or allow any other person to smoke in the vehicle, at any time. In this context, smoking includes the use of e-cigarettes/vaping.
- 2.10 Where a customer feels they have reason to make a complaint, the driver must give them such information as is reasonably requested to enable them and the vehicle being driven to be readily identified, i.e. driver badge number and vehicle plate and registration number.

### **3. Driver Licence/Badge**

- 3.1 The driver shall at all times, when acting in accordance with the driver licence granted to them, wear such badge as supplied by the council in such position and manner as to be plainly and distinctly visible at all times.
- 3.2 The driver shall not lend the badge to any other person or cause or permit any other person to wear it, display it or otherwise utilise it.
- 3.3 All licences/badges remain the property of the council at all times. They must be returned forthwith when employment as a licensed driver ceases, the licence expires or is not renewed, or where the licence is suspended or revoked.
- 3.4 In the event of a driver's licence (badge) being lost, stolen or damaged, they shall, within 24 hours of such an occurrence, notify the council and apply for a replacement badge via the [online form](#) found on the council's website.
- 3.5 In the event of a driver changing their name and/or address they shall, within seven days of such change taking place, notify the council and apply for an updated badge (if required) via the [online form](#) found on the council's website.
- 3.6 Notwithstanding 3.4 and 3.5, any change affecting the licence must be notified to the council in writing via email as soon as reasonably practicable but, in any event, no later than seven days after the change was affected.

### **4. General Duties of Licence Holder**

- 4.1 All drivers shall comply with the Council's Hackney Carriage and Private Hire Licensing Policy.
- 4.2 The driver's licence must be made available for inspection, upon request, by any authorised officer of the council or any police officer.
- 4.3 The driver must notify the council within seven days of starting or terminating driving for an operator, as to the name and address of the operator concerned and the date when the arrangement either started or ended. When renting a vehicle from a licensed vehicle proprietor, the driver must notify the council within seven days of starting or terminating such an arrangement, as to the name and address of the proprietor concerned and the date when the rental either started or ended.
- 4.4 The driver's licence must be presented to the proprietor prior to renting the vehicle or to the operator concerned prior to commencement on the circuit.

### **5. Use of Licensed Vehicle**

- 5.1 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.
- 5.2 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.
- 5.3 The driver shall convey a reasonable amount of luggage and afford reasonable assistance to passengers with loading and unloading luggage.

- 5.4 The vehicle must only be driven with the consent of the proprietor of the vehicle.
- 5.5 The driver must not drink or eat in the vehicle whilst in the presence of customers.
- 5.6 The driver must comply with any hirer's request not to play any radio or sound equipment which is not connected with the operation of the business.
- 5.7 The driver must ensure that the noise emitted from any sound equipment in the vehicle does not cause annoyance to any persons, whether inside or outside the vehicle.
- 5.8 The driver shall not operate the horn as a means of signalling that the vehicle has arrived or otherwise use it inappropriately or unlawfully.
- 5.9 The driver shall take such steps as are reasonably practicable to avoid disturbing residents, including keeping the volume of all audio equipment, two-way radios and behavioural noise to a minimum.
- 5.10 The driver shall ensure that any licensed vehicle they drive complies with the Licensed Vehicle Conditions contained in Appendix B.
- 5.11 The driver shall switch their engine off whenever it is practicable to do so.
- 5.12 Drivers must not use a mobile phone whilst driving unless it is hands-free.
- 5.13 Drivers shall obey all Traffic Regulation Orders and directions at all times.

## **6. Assistance Dogs**

- 6.1 Drivers must comply with the requirements set out in section 3.21 of the main policy document.

## **7. Carriage of Other Animals**

- 7.1 Drivers are not permitted to carry animals in licensed vehicles while they are being used as such, other than bona fide assistance dogs (see 6.1 of this Appendix and 3.21 of the main policy document) or animals owned by bona-fide fare paying passengers with the agreement of the driver.

## **8. Medical Fitness of Driver**

- 8.1 The driver must at any time, or at such intervals as the council may reasonably require, produce a specified certificate issued by the drivers own GP or someone with access to his medical records (as determined by the council) to the effect that he is, or continues to be, physically and psychologically fit to be a driver of a licensed vehicle in accordance with section 3.10 of the main policy document.
- 8.1.1 The driver must cease driving any vehicle and notify the Council immediately in writing, via email, if they know of any medical condition which may affect their driving ability or the health and safety of themselves or any passengers.

## **9. DVLA Driving Licence Checks**

- 9.1 All licensed drivers will be subject to an online DVLA check at every renewal, or at such intervals as the council may reasonably require and are required to provide the council with a unique 'check code' to enable them to carry out each check and,

in doing so, give consent for the council to access their DVLA driving history using the code supplied.

## **10. Convictions and Criminal Record Checks**

- 10.1 All licensed drivers are required to have an Enhanced DBS check every 6 months and are therefore required to register for the DBS Update Service and give the Council ongoing permission and the information required to check the status of their certificate every six months or otherwise as considered necessary.
- 10.2 If the driver is arrested, released, charged, convicted, cautioned or bound over for any offence, he shall within 48 hours give details of the conviction, caution or binding over to the council in writing and send by email.

## **11. Lost Property**

- 11.1 A driver of a licensed vehicle shall immediately after the termination of any hiring or as soon as practicable, search the vehicle for any property which may have been accidentally left therein.
- 11.2 Any property found (that is not already claimed by, or on behalf of, its owner) must be reported to the Licensing Department within 24 hours and kept safely and securely by the driver for at least 14 days.
- 11.3 During this time, the driver should make all reasonable attempts to reunite the owner with their property and must return it to its owner, or a person legitimately claiming it on their behalf, if the opportunity arises.
- 11.4 If, after 14 days, the property has not been reclaimed, the driver may dispose of it in a legal and responsible manner.

## **12. Receipts**

- 12.1 The driver shall, if requested by the hirer, provide them with a receipt for the fare paid.

## **13. Card Payment Machines**

- 13.1 All licensed hackney Carriage and Private Hire Drivers must provide a card payment facility in accordance the Guidance for Electronic Payment Devices.

## **14. Wheelchair Accessible Vehicles**

- 14.1 All drivers of wheelchair accessible vehicles must:
  - 14.1.1 Ensure that all parts of the vehicle required to safely load and transport a wheelchair-bound passenger are in full working order at all times.
  - 14.1.2 Be fully conversant with the correct method of operation of all ramps, lifts and wheelchair restraints fitted to the vehicle.
  - 14.1.3 Before any movement of the vehicle takes place, ensure that all wheelchairs are firmly secured to the vehicle using an approved restraining system and the brakes of the wheelchair have been applied.

- 14.1.4 Ensure that any wheelchairs, equipment and passengers are carried in such a manner that no danger is likely to be caused to those passengers, or to anyone else, in accordance with the regulations detailed in section 100 of the Road Vehicles (Constructions and Use) Regulations 1986.
- 14.1.5 Have successfully completed the practical element regarding the loading/securing and unloading of passengers in wheelchairs as part of their Assessment delivered by one of the council's approved providers.

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

- 15.1 Licence holders must, at their earliest possible opportunity, report any concerns about the vulnerability of a child to Kent Police by calling 101 and quoting 'Operation Willow' or by calling 999 in an emergency.
- 15.2 Drivers must, at any time or at such intervals as the council may reasonably require, attend an approved Safeguarding and Child Sexual Exploitation Awareness session and, if introduced, pass an associated test; details of which will be specified and maintained on the council's driver licence webpages.

## **16. Conditions applicable to Private Hire Drivers only**

- 16.1 Drivers must not cause or permit the vehicle to stand on a public road, on a hackney carriage rank, or in a public place so as to suggest that it is plying, or available for, hire.
- 16.2 Drivers 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 a Medway-licensed operator.

## **17. Conditions applicable to Restricted Private Hire Drivers only**

- 17.1 The holder of a restricted private hire driver licence can only drive a Medway-licensed restricted private hire vehicle, which must only be used for the carriage of passengers in accordance with the conditions attached to the vehicle licence.

## **18. Fares and Journeys**

- 18.1 The driver/operator of a private hire vehicle may make their own agreement with the hirer as to the fare for a particular journey.
- 18.2 If the vehicle is fitted with a taximeter, then the driver of a private hire vehicle must:
  - 18.2.1 Unless the hirer expresses at the commencement of the journey their desire to engage by time, bring the meter into operation at the commencement of the journey and bring the machinery of the taximeter into action by moving the said key, flag or other device, so that the word 'HIRED' is legible on the face of the meter, before beginning a journey and keep the machinery of the taximeter in action until the termination of the hiring.
  - 18.2.2 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.

- 18.2.3 Cause the dial of the taximeter to be kept properly illuminated throughout any part of the hiring which is during the hours of darkness as defined for the purposes of the Road Traffic Act 1972, and also at any other time at the request if the hirer.
- 18.2.4 Not demand from any hirer of a private hire vehicles a fare in excess of any previously agreed for that hiring between the hirer and the operator or, if the vehicle is fitted with a meter, the fare shown on the face of the taximeter.
- 18.2.5 In the event of a journey commencing in but ending outside of Medway 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 taximeter.

# **APPENDIX E**

## **PENALTY POINTS SYSTEM**

**The penalty points system will operate as follows:**

### **1. Introduction**

- 1.1 The issuing of penalty points is not a formal sanction in its own right; it is predominately an internal management tool to assist the council to determine a licence holder's fitness and propriety in a transparent and consistent way.
- 1.2 Penalty points will be issued to a licence holder (driver, operator and/or proprietor) when the licensing officer is satisfied, on the balance of probabilities, that an offence and/or breach of licensing requirements occurred.
- 1.3 The penalty points system will operate without prejudice to the council's ability to take other action under appropriate legislation or as provided for by this policy.
- 1.4 The tables below list breaches of relevant legislation and of the Medway Council Hackney Carriage and Private Hire Licensing Policy, along with the corresponding number of points that can be issued in relation to each breach. The lists are not exhaustive.

### **2. Issuing of Points**

- 2.1 The licensing officer will determine the appropriate number of points to be given in line with the following:
  - 2.1.1 The starting point for first breaches will ordinarily be half of the maximum number of points; subsequent or multiple breaches, or those considered to be more serious, are likely to attract a significantly higher number of points up to the stated maximum.
  - 2.1.2 Depending on the apparent circumstances of the offence/breach, the licensing officer may take factors, considered by them to be mitigating or aggravating, into account and adjust the number of points to be issued accordingly within the specified points range.
- 2.2 Points issued to a licence holder will be confirmed in writing, ordinarily via email, within ten working days from the discovery of the contravention or the conclusion of an investigation into a complaint.
- 2.3 The council may issue penalty points to drivers, proprietors and/or operators for a single contravention if the circumstances warrant it, i.e. the breach is one against all these licences and it is considered that joint responsibility is held.
- 2.4 There is no financial penalty associated with the system, and the licence holder may continue to work.

### **3. Appeals**

- 3.1 Where the licence holder does not agree with the imposition of the penalty points (for example, because they disagree the infringement took place or disagree that they were the person involved, feel there was a reasonable excuse why it took place, or feel the number of points issued are not appropriate), they may appeal.

- 3.2 Any licence holder wishing to appeal must do so in writing to the licensing team within seven days from the date the points were issued so that the matter can be referred to the Licensing Sub Committee for their consideration.
- 3.3 The licence holder's penalty will be re-considered in the light of any further mitigating circumstances the licence holder wishes to be considered however the Licensing Sub Committee is equally at liberty to impose a harsher penalty if considered appropriate.
- 3.4 The council will have serious doubts as to the fitness and propriety of a licence holder who is found to have acted dishonestly, for example, by falsely denying involvement in, or responsibility for, the breach(es).

#### **4. Further Action**

- 4.1 Penalty points will remain 'live' for a period of two years from the date they are issued so that only points accumulated in a rolling twenty four month period will be taken into account.
- 4.2 Where a driver, proprietor or operator attains 12 or more 'live' penalty points on any one of their licences, they will be required to attend a Committee hearing where the appropriate action to be taken in accordance with this Policy, which will include suspension or revocation of the licence, will be decided.
- 4.3 The length of a suspension period will be dependent on such factors as the nature of the breaches and the compliance history and attitude of the licence holder.
- 4.4 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.
- 4.5 If it is felt that the matter does not warrant suspension or revocation of the licence, the period for which the points are to remain "live" may be extended and/or a written warning may be issued to the driver as to their future conduct.
- 4.6 Once the matter has been dealt with:
  - 4.6.1 Points will be removed if a suspension or revocation is imposed.
  - 4.6.2 If a written warning is given the points will remain live for the normal two year period.
  - 4.6.3 If the live period is extended the points will remain live for the time determined by the Committee.
- 4.7 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.
- 4.8 Licence holders have the right to be represented at any meeting, either legally or otherwise, and to state any mitigating circumstances they consider relevant.
- 4.9 Any driver or vehicle proprietor or operator subject to suspension or revocation has the right of appeal to the Magistrates Court against the suspension or revocation.

<b>Code</b>	<b>Section</b>	<b>Offence under Town Police Clauses Act 1847</b>	<b>Maximum Penalty Points</b>
T1	40	Giving false information on a hackney carriage licence application	12
T2	44	Failure to notify change of address on a hackney carriage licence within seven days	2
T3	45	Plying for hire without a hackney carriage licence	12
T4	47	Driving a hackney carriage without a hackney carriage driver's licence	12
T5	47	Lending or parting with a hackney carriage driver's licence	4
T6	47	Hackney carriage proprietor employing an unlicensed driver	10
T7	48	Failure of a proprietor to hold the hackney carriage driver's licence belonging to the driver of their vehicle	6
T8	48	Failure of a proprietor to produce the hackney carriage driver's licence belonging to the driver	4
T9	52	Failure to display a hackney carriage plate	4
T10	53	Refusal to take a fare without a reasonable excuse	12
T11	54	Charging more than the agreed fare	12
T12	55	Obtaining more than the legal fare (including failure to refund)	12
T13	56	Travelling less than the lawful distance for an agreed fare	8
T14	57	Failure to wait after a deposit to wait has been paid	12
T15	58	Charging more than the legal fare	12
T16	59	Carrying people other than the hirer without the consent of the hirer	8
T17	60	Driving a hackney carriage without the proprietor's consent	12
T18	60	Allowing a person to drive a hackney carriage without the proprietor's consent	12
T19	62	Driver leaving a hackney carriage unattended	2
T20	64	Hackney carriage driver obstructing other hackney carriages	4

<b>Code</b>	<b>Section</b>	<b>Offence under Local Government (Miscellaneous Provisions) Act 1976</b>	<b>Maximum Penalty Points</b>
L1	46(1)(A)	Using an unlicensed private hire vehicle	12
L2	46(1)(b)	Driving a private hire vehicle without a private hire driver's licence	12
L3	46(1)(c)	Proprietor of a private hire vehicle using an unlicensed driver	12
L4	46(1)(d)	Operating a private hire vehicle without a private hire operators' licence	12
L5	46(1)(e)	Operating a vehicle as a private hire vehicle when the vehicle is not licensed as a private hire vehicle	12
L6	46(1)(e)	Operating a private hire vehicle when the driver is not licensed as a private hire driver	12
L7	48(6)	Failure to display a private hire vehicle plate	4
L8	49	Failure to notify the transfer of a vehicle licence	4

<b>Code</b>	<b>Section</b>	<b>Offence under Local Government (Miscellaneous Provisions) Act 1976</b>	<b>Maximum Penalty Points</b>
L9	50(1)	Failure to present a hackney carriage or private hire vehicle for inspection upon request	12
L10	50(2)	Failure to inform the Council where a hackney carriage or private hire vehicle is stored, if requested	4
L11	50(3)	Failure to report an accident to the Council within seventy two hours	6
L12	50(4)	Failure to produce the vehicle and insurance upon request	12
L13	53(3)	Failure to produce a driver's licence upon request	4
L14	54(2)	Failure to wear a private hire driver's badge	6
L15	56(2)	Failure of a private hire operator to keep proper records of all bookings, or failure to produce them upon request of an authorised officer of the Council or a police officer	6
L16	56(3)	Failure of a private hire operator to keep proper records of all private hire vehicles, or failure to produce them on request of an authorised officer of the Council or a police officer	6
L17	56(4)	Failure of a private hire operator to produce his licence upon request	4
L18	57	Making a false statement or withholding information to obtain a hackney carriage private hire driver's licence	12
L19	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	12
L20	61(2)	Failure to surrender a driver's licence after suspension, revocation, or refusal to renew	12
L21	64	Permitting any vehicle other than a hackney carriage to wait on a hackney carriage rank	6
L22	66	Charging more than the meter fare for a journey ending outside the district, without prior agreement	12
L23	67	Charging more than the meter fare when a hackney carriage is used as a private hire vehicle	12
L24	69	Unnecessarily prolonging a journey	12
L25	71	Interfering with a taximeter with intent to mislead	12
L26	73(1)(a)	Obstruction of an authorised officer of the Council or a police officer	12
L27	73(1)(b)	Failure to comply with a requirement of an authorised officer of the Council or a police officer	12
L28	73(1)(c)	Failure to give information or assistance to an authorised officer of the Council or police officer	12

<b>Code</b>	<b>Section</b>	<b>Offence under Transport Act 1980</b>	<b>Maximum Penalty Points</b>
TA1	64(2)(a)	Driving a vehicle that is not a taxi with a sign above its roof which consists of or includes the word "taxi" or "cab" or 'hire', or any word of similar meaning or appearance to any of those words whether alone or part of another word	10

<b>Code</b>	<b>Section</b>	<b>Offence under Transport Act 1980</b>	<b>Maximum Penalty Points</b>
TA2	64(2)(b)	Causing or permitting a vehicle that is not a taxi to have a sign above its roof which consists of or includes the word "taxi" or "cab" or 'hire', or any word of similar meaning or appearance to any of those words whether alone or part of another word	10
<b>Code</b>	<b>Section</b>	<b>Offence under Equality Act 2010</b>	<b>Maximum Penalty Points</b>
E1	All applicable	Any offence under the Equality Act 2010	12

<b>Code</b>	<b>Breach of Hackney Carriage and Private Hire Licensing Policy</b>	<b>Maximum Penalty Points</b>
P1	Failure to wear a driver's badge	6
P3	Failure to ensure the safety of passengers	12
P4	Concealing or defacing a vehicle licence plate	6
P5	Failure to attend on time for a pre-arranged booking without reasonable cause	4
P6	Conveying a greater number of passengers than permitted	12
P7	Failure to give reasonable assistance with passenger's luggage	4
P8	Private hire soliciting for hire or accepting a fare that is not pre-booked	12
P9	Operating/using a vehicle that is not clean and tidy and in a safe condition internally or externally	6
P10	Driving without the consent of the proprietor	6
P11	Drinking or eating in the vehicle whilst carrying passengers	2
P12	Smoking in the vehicle at any time	6
P13	Causing excessive noise from any radio or sound-reproducing equipment	2
P14	Operating the horn as a means of signalling that a vehicle has arrived	2
P15	Allowing a private hire vehicle to stand in such a position as to suggest that it is plying for hire or using a hackney carriage stand	6
P17	Using a non-hands free mobile telephone whilst driving	12
P18	Failure to advise of a relevant (Group 2) medical condition or change in medical circumstances	12
P19	Failure to provide a receipt for a fare when requested	2
P20	Failure to operate the meter from the commencement of the journey and /or charging more than the fixed charge for hire of a hackney carriage	12
P21	Failure to notify the Council of any amendment to the details of a licence within seven days	4
P22	Failure to produce a licence upon request	4
P23	Failure of a driver to notify the council, within seven days of starting or terminating employment, of the name and address of the proprietor and the term of employment	4
P24	Failure to show a private hire driver's licence to the private hire operator at the commencement of employment	2

<b>Code</b>	<b>Breach of Hackney Carriage and Private Hire Licensing Policy</b>	<b>Maximum Penalty Points</b>
P25	Failure of a private hire operator to request and/or record details of a private hire driver's licence at the beginning of employment	2
P26	Failure to surrender a driver's licence, badge or plate upon request	12
P27	Failure of a licence holder to disclose convictions within 48 hours of arrest, release, charge or conviction	12
P28	Carrying any animal other than a guide, hearing or other prescribed assistance dog or those owned by bone-fide fare paying passengers	2
P29	Failure to search a vehicle after a journey or deal with lost property found in accordance with policy requirements	8
P30	Failure to comply with requirements for the safe carrying of a wheelchair	12
P31	Operating a vehicle that does not comply with the Council's licensing policy where such a breach of policy requirements is not otherwise specified herein	12
P32	Operating/using a vehicle which is not maintained in a sound and roadworthy condition	12
P35	Modifying a vehicle without the consent of the Council	12
P36	Failure to display or maintain external plates as issued by the council or displaying them incorrectly e.g. in the window of a vehicle, or whilst unclear or illegible	4
P37	Affixing or displaying a roof sign on a private hire vehicle	12
P38	Displaying a sign or advertisement on a licensed vehicle that does not satisfy the policy requirements or has not been approved by the Council	4
P39	Carrying radio equipment or similar devices not in accordance with council requirements	2
P40	Using a taximeter that does not conform to Council requirements	6
P41	Driving with no insurance or inadequate insurance for the vehicle	12
P42	Permitting the vehicle to be used for any illegal or immoral purposes	12
P43	Failure of a private hire operator to ensure that office staff act in a civil and courteous manner at all times	4
P44	Failure of a private hire operator to keep the operating premises in accordance with council requirements	4
P45	Failure of a private hire operator to ensure that all vehicles operated by him are adequately insured	12
P46	Failure of a private hire operator to obtain public liability insurance for the operating premises if the public are allowed access	12
P47	Failure to proceed with all reasonable speed to the next available rank	8
P48	Carrying an offensive weapon in the vehicle including imitation firearms	12
P49	Waiting or stopping on a double yellow line or a bus stop	6
P50	Failure to observe rank discipline e.g. failure to move up, driving on the pavement or grass	6
P51	Unsatisfactory behaviour or conduct of a driver including failing to behave in a civil and orderly manner to both the public, authorised officers or to other drivers	12

Code	Breach of Hackney Carriage and Private Hire Licensing Policy	Maximum Penalty Points
P52	Failure to take all reasonable steps to ensure the comfort, wellbeing and safety of persons conveyed in, or entering or leaving the vehicle.	12
P52	Any other transgression not contained within the penalty points system which in the opinion of an authorised officer should have penalty points imposed	12

# **APPENDIX F**

## **PRIVATE HIRE OPERATOR'S LICENCE CONDITIONS**

### **1. Standards of Service**

- 1.1 The operator shall:
  - 1.1.1 Provide a prompt, efficient and reliable service to members of the public at all reasonable times.
  - 1.1.2 Ensure that their office staff act in a civil and courteous manner at all times.
  - 1.1.3 Ensure that when a vehicle has been hired, it arrives punctually at the appointed place, unless delayed by unforeseen circumstances.
  - 1.1.4 Ensure that premises provided for the purpose of booking or waiting are kept clean and are adequately lit, heated and ventilated.
  - 1.1.5 Ensure that any waiting area provided has adequate seating facilities and that telephone facilities are in good working order.
  - 1.1.6 Ensure that the use of the premises which is used for the running of the business has no detrimental effect on the neighbourhood or its residents.
  - 1.1.7 Fulfil their responsibilities to ensure compliance with legislation regarding the length of working hours.

### **2. Records**

- 2.1 The records, which must be kept by private hire operators under the Local Government (Miscellaneous Provisions) Act 1976, are set out in sections 4, 5, 6 and 19 of this Appendix.
- 2.2 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.
- 2.3 The private hire operator's licence shall similarly be available for inspection upon request by any authorised officer of the Council or any police officer.
- 2.4 The operator shall, at all times keep a copy of these conditions at any premises used by him for a private hire business and shall make the same available for inspection by fare-paying passengers.

### **3. Sub-contracting**

- 3.1 Operators that accept a booking remain legally responsible for that booking even if they sub-contract the booking to another Operator and should record the booking as normal and the fact that it was sub-contracted. Similarly, Operators who accept a sub-contracted booking will also need to record the booking as normal.

## **4. Bookings**

- 4.1 Prior to each journey, the operator shall enter (on the same calendar day that the booking is received) 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:
  - 4.1.1 Date and time of the booking
  - 4.1.2 Name and address of the passenger/hirer
  - 4.1.3 How the booking was made (e.g. telephone call, online booking, etc.,)
  - 4.1.4 The name of any individual that responded to the booking request
  - 4.1.5 The name of any individual that dispatched the vehicle.
  - 4.1.6 Time of pick-up
  - 4.1.7 Address of the point of pick-up
  - 4.1.8 Destination
  - 4.1.9 Name of the driver
  - 4.1.10 Time at which a driver was allocated the booking or, if sub-contracted, the time and whom the booking was sub-contracted to
  - 4.1.11 Vehicle plate number (or other identification) of the vehicle allocated
  - 4.1.12 Fare (if agreed between the operator and hirer at the time of booking).

## **5. Vehicles**

- 5.1 The operator shall ensure that every vehicle engaged by them has a valid and relevant vehicle licence obtained by the same Licensing Authority which issued the private hire operator's licence and that it complies with the Vehicle Licence Conditions listed in Appendix B.
- 5.2 The operator shall keep records of the particulars of all private hire vehicles operated by them, pursuant to section 56(3) of the Local Government (Miscellaneous Provisions) Act 1976, namely the:
  - 5.2.1 Type, make, model, colour and engine size of vehicles
  - 5.2.2 Year when the vehicle was first licensed for private hire
  - 5.2.3 Vehicle registration numbers
  - 5.2.4 Number of seats for passengers
  - 5.2.5 Owners/proprietors of the vehicles
  - 5.2.6 Insurance details of vehicles
  - 5.2.7 Method of charging, i.e. whether or not a meter is fitted
  - 5.2.8 Private hire vehicle plate numbers

## **6. Drivers**

- 6.1 The operator shall ensure that every driver engaged by them has a valid and relevant drivers' licence issued by the same Licensing Authority which issued the private hire operator's licence.
- 6.2 The operator shall ensure as far as is reasonably practicable that all drivers have a badge issued by the council and that the drivers wear the badge in a conspicuous place at all times whilst available for hire.
- 6.3 The operator shall keep records of the particulars of all drivers of private hire vehicles operated by them, pursuant to section 56(3) of the Local Government (Miscellaneous Provisions) Act 1976, namely:

- 6.3.1 The names and addresses of drivers, and their call signs if any
- 6.3.2 Date any new driver begins service
- 6.3.3 Date when any drivers service ceases
- 6.3.4 Any change of address of any driver in service
- 6.3.5 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
- 6.3.6 Expiry dates of drivers badges and vehicle licences

## **7. Restricted Private Hire Drivers and Vehicles**

- 7.1 The operator shall only assign bookings to restricted private hire drivers and restricted private hire vehicles in accordance with their licence conditions specifying the restrictions on the journeys, which may be carried out by/in them.

## **8. Disclosure of Convictions**

- 8.1 The operator shall, within 48 hours of conviction, notify the Council in writing and send by email, of any conviction or fixed penalty notice imposed on them during the period of duration of their operator's licence.
- 8.2 If the operator is a company or partnership, this requirement shall equally apply if any of the directors or partners receives a conviction or fixed penalty notice.

## **9. Equality**

- 9.1 Operators must familiarise themselves with all requirements placed upon them under the Equality Act 2010 and ensure that both they and their staff comply with them at all times.

## **10. Insurance**

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

## **11. Advertising**

- 11.1 The operator must not use in any advertisement of their business the words "Hackney Carriage" "Taxi" "For Hire" or "Cab" if licensed Hackney Carriages cannot be supplied.
- 11.2 Operators shall only advertise their business in accordance with the name and address shown on their licence and shall not advertise by any means that is unlawful or irresponsible.

## **12. Change of Details**

- 12.1 In the event of an operator changing their personal and or business name and/or address they shall, within seven days of such change taking place, notify the

council and apply for an updated licence (if required) via the [online form](#) found on the council's website.

- 12.2 Where an operator licence is held by a company or partnership, they shall advise the licensing authority of any change in directors, partners or secretaries within seven days of such change taking place and apply for an updated licence (if required) via the [online form](#) found on the council's website.

### **13. Lost, Stolen or Damaged Licence**

- 13.1 In the event of an operator's licence being lost, stolen or damaged, the licence holder shall, within 24 hours of such an occurrence, notify the council and apply for a replacement via the [online form](#) found on the council's website.

### **14. Surrender of Licence**

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

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

- 15.1 Licence holders must, at their earliest possible opportunity, ensure that any concerns that they or their staff have about the vulnerability of a child are reported to Kent Police by calling 101 and quoting 'Operation Willow' or by calling 999 in an emergency.
- 15.2 Operators must, at any time or at such intervals as the council may reasonably require, attend an approved Safeguarding and Child Sexual Exploitation Awareness session and, if introduced, pass an associated test; details of which will be specified and maintained on the council's taxi and private hire webpages.

### **16. Complaints**

- 16.1 The operator must notify the council's licensing team in writing via email to [licensing@gravesham.gov.uk](mailto:licensing@gravesham.gov.uk) within 48 hours of any complaints they receive concerning their drivers/contracts for hire or purported contracts for hire relating to or arising from their business, and of the action (if any) which the operator has taken or proposes to take in respect thereof. Complaints of a serious nature, such as allegations of sexual or violent misconduct, must be reported within 24 hours.
- 16.2 All complaints shall be kept by the operators for a period of at least twelve months after the date of last entry and shall be promptly produced, in a format for inspection, on request, by any Authorised Officer of the council or any Police Officer.

### **17. Lost Property**

- 17.1 Any property found (that is not already claimed by, or on behalf of, its owner) at the offices (including the grounds) of a publicly accessible private hire office must be reported to the Licensing Department within 24 hours and kept safely and securely by the operator for a period of not less than 14 days.

- 17.2 During this time, the operator should make all reasonable attempts to reunite the owner with their property and must return it to its owner, or a person legitimately claiming it on their behalf, if the opportunity arises.

If, after 14 days, the property has not been reclaimed, the operator may dispose of it in a legal and responsible manner.

## **18. Staff**

- 18.1 The licence holder(s) must keep an up to date record of all members of staff involved in taking bookings and dispatching vehicles.
- 18.2 All staff listed on the register referred to in 18.1 must provide the licence holder with a Basic DBS check certificate that is less than 3 months old prior to taking bookings and dispatching vehicles.
- 18.3 The licence holder(s) must be able to provide evidence to the satisfaction of the council, upon request, that they have had sight of the Basic DBS check certificates referred to in 19.2 (although the DBS Certificates should not be retained) and record this, along with the date seen, in the register referred to in 18.1.
- 18.4 Should an employee cease to be on the register and later re-entered, a new basic DBS certificate should be requested in accordance with 18.2 and sight of this recorded in accordance with 18.3.
- 18.5 The licence holder(s) must have, and apply, a policy on employing ex-offenders in roles that would be on the register as above. As with the threshold to obtaining a private hire vehicle operators' licence, those with a conviction for offences provided in Appendix C of this Policy, other than those relating to driving, may not be suitable to decide who is sent to carry a child or vulnerable adult unaccompanied in a car. The policy on employing ex-offenders should reflect this and be properly applied by the licence holder(s).

## **19. Use of passenger carrying vehicles (PCV) licensed drivers**

- 19.1 Where a private hire vehicle is unsuitable, for example where a larger vehicle is needed because more than eight passenger seats are required or to accommodate luggage, the booker must be informed that a Public Service Vehicle (PSV) is necessary, and that a Passenger Carrying Vehicle licensed driver (PCV) will be used who is subject to different checks and not required to have an enhanced DBS check.
- 19.2 The use of a driver who holds a PCV licence and the use of a PSV such as a minibus shall not be dispatched to undertake a private hire vehicle booking without the informed consent of the booker, having regard to 19.1 (above).

# **APPENDIX G**

## **COMPLIANCE AND ENFORCEMENT POLICY**

### **1. Enforcement Policy Statement**

- 1.1 It is the policy of the council to ensure that all drivers, vehicles and operators are licensed correctly and carry out their trade in accordance with both the relevant legislation and the council's Hackney Carriage and Private Hire Licensing Policy.
- 1.2 This policy aims to provide guidance and clarity in relation to the compliance and enforcement interventions that may be taken by the council and in order to better ensure consistency and proportionality of approach.
- 1.3 Enforcement action will be primarily based upon the seriousness of the matter and the possible consequences arising out of it. Enforcement action will not therefore be used as a punitive response to minor technical contraventions of legislation.
- 1.4 Authorised officers, when making enforcement decisions, will abide by this policy. Any departure from it must be exceptional, capable of justification, be fully considered and be endorsed by the Licensing Manager or above before the decision is taken (unless it is considered that there is a risk to the public in delaying the decision).
- 1.5 Authorised officers must be fully acquainted with the requirements of the policy and appropriate training will be provided where required.
- 1.6 Officers will be authorised by the council to take enforcement actions that are relevant and appropriate to their level of competence, and all enforcement action will be undertaken by an Authorised Officer of the appropriate status. Competency will be assessed individually by reference to qualifications and experience.

### **2. Enforcement Options**

- 2.1 Achieving and maintaining consistency of approach is of paramount importance. To achieve and maintain consistency, it is vital that the policy guidelines are always considered and followed where appropriate.
- 2.2 Licence application and enforcement decisions must be consistent, reasonable and proportionate whilst ensuring that the public is adequately protected. In reaching a decision, the council may take into account such matters as the:
  - 2.2.1 seriousness of any offences
  - 2.2.2 licence holders' previous history
  - 2.2.3 consequence of non-compliance
  - 2.2.4 likely effectiveness of the various enforcement options
  - 2.2.5 risk to the public
- 2.3 Having considered all relevant information and evidence, the choices for action are: -
  - 2.3.1 In relation to licence applications:

2.3.1.1 to grant licences subject to the Council's Hackney Carriage and Private Hire Licensing Policy requirements

2.3.1.2 to refuse to grant or renew a licence

2.3.2 In relation to enforcement action:

2.3.2.1 take no action

2.3.2.2 take informal action

2.3.2.3 use statutory notices

2.3.2.4 suspend a licence

2.3.2.5 revoke a licence

2.3.2.6 use simple cautions

2.3.2.7 prosecute

2.3.2.8 a combination of any of the above

2.4 This policy document provides detailed guidance in relation to the various options for enforcement action.

### **3. Informal Action**

3.1 Informal action to secure compliance with legislation includes offering advice, giving verbal or written warnings, requests for action, the use of letters or the issue of penalty points in accordance with Appendix E.

3.2 Such informal enforcement action may be appropriate where:

3.2.1 the act or omission is not serious enough to warrant more formal action.

3.2.2 it can be reasonably expected that informal action will achieve compliance

3.2.3 general confidence in licence holder is high

3.2.4 the consequences of non-compliance will not pose a significant risk to the safety of the public

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

### **4. Appearance before the relevant committee of the council**

4.1 An offending individual or company may be required to attend a meeting with the relevant committee of the council or an officer of the council, to answer allegations of breaches of relevant legislation, byelaws, conditions or this policy.

4.2 Current licence holders who report an arrest and release, charge, conviction or breach relevant legislation during the period of their licence may be brought before the relevant committee of the council.

4.3 The Committee may decide to take one or more of the following actions:

4.3.1 take no action

4.3.2 issue a verbal or written warning

4.3.3 require the production of driving licences or other specified documentation at the Council Offices

4.3.4 suspend a licence

4.3.5 revoke a licence

4.3.6 refuse to renew a licence

4.3.7 recommend prosecution action

4.3.8 take any other appropriate action as deemed appropriate

## **5. Suspension and Revocation**

### **5.1 Suspension and Revocation of Vehicle Licences under s.68 LG(MP)A 1976**

5.1.1 If an authorised officer is not satisfied with the fitness of a hackney carriage or private hire vehicle, or the accuracy of its taximeter, they may serve notice under section 68 of the LG(MP)A 1976 requiring for it to be examined at a specific time and place (at the proprietor's expense), and suspend the vehicle licence until such time as they become satisfied with the same.

5.1.2 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, at which time written confirmation of the lifting of the suspension notice will be given.

5.1.3 If the authorised officer who issued the suspension notice is not satisfied that the appropriate action has been taken to allow the suspension notice to be withdrawn within a period of two months from the date of issue, the vehicle licence shall be deemed to be revoked.

5.1.4 The decision of the Court of appeal in R (on the application of Wilcock) v Lancaster City Council confirmed that 'unfit' in relation to s.68 means any non-compliance with the council's conditions/requirements as well as mechanical unfitness, and that it is not confined to cases of un-roadworthiness.

5.1.5 The council may therefore utilise its powers under s.68 in cases where its officers are not satisfied that a vehicle is complying with legislative or policy requirements/conditions. This will include instances where an officer cannot be satisfied, for example, where they are reliant on third party confirmation such as by way of an MOT pass certificate.

5.1.6 There is no right of appeal against the suspension of a vehicle made under s.68.

### **5.2 Suspension and Revocation of Vehicle Licences under s.60 LG(MP)A 1976**

5.2.1 Section 60 of the LG(MP)A 1976 allows a council to suspend, revoke or refuse to renew a vehicle licence on any of the following grounds:

5.2.1.1 The vehicle is unfit for use as a hackney carriage or private hire vehicle;

5.2.1.2 Any offence under, or non-compliance with, the provisions of the Act of 1847 or of Part II of this Act by the operator or driver;

5.2.1.3 Any other reasonable cause.

5.2.2 Where a district council suspend, revoke or refuse to renew any licence under this section, they will give the proprietor of the vehicle notice of the grounds on which the licence was suspended or revoked or on which they refused to renew the licence within fourteen days of such suspension, revocation or refusal.

5.2.3 A proprietor aggrieved by a decision of a district council under this section may appeal to a magistrates' court within 21 days from the date of service.

- 5.2.4 A suspension or revocation under this section does not take effect until either the expiration of the 21 day appeal period or until any appeal lodged has been concluded.
- 5.3 Suspension and Revocation of Drivers' Licences under s.61 LG(MP)A 1976
- 5.3.1 Section 61 of the LG(MP)A 1976 allows a council to suspend, revoke or refuse to renew a drivers' licence on any of the following grounds:
- 5.3.1.1 That they have since the grant of the licence
- i. been convicted of an offence involving dishonesty, indecency or violence; or
  - ii. been convicted of an offence under or has failed to comply with the provisions of the Act of 1847 or Part II of this Act.
- 5.3.1.2 That they have since the grant of the licence been convicted of an immigration offence or required to pay an immigration penalty, or
- 5.3.1.3 Any other reasonable cause.
- 5.3.2 The discretion under this Section is wide and is not restricted to convictions for criminal offences nor is proof required to the criminal standard; Section 61 requires the licensing authority to make a finding on the balance of probabilities that the grounds set out in the legislation are met.
- 5.3.3 Guidance is given in a number of cases from which the following principles can be drawn.
- 5.3.3.1 The decision maker is entitled to take hearsay evidence into account. *McCool v Rushcliffe Borough Council (1998)*
- 5.3.3.2 The fact that no criminal case is pursued against the driver is a relevant factor that can be outweighed by other evidence. *McCool v Rushcliffe Borough Council (1998)*
- 5.3.3.3 The burden of proof is on the applicant to establish that he is a fit and proper person to hold the licence. *R v Maidstone Crown Court ex parte Olson (1992)*
- 5.3.3.4 Once the driver has established a case that he is a fit and proper person, the evidential burden shifts to the Local Authority to rebut the case put forward by the driver. Rebuttal does not require the decision maker to prove that a person is not a fit and proper person and nor does pursuing that argument amount to double jeopardy.
- 5.3.3.5 They would not have good reason to question or doubt the applicant's case if the evidence amounts to assertions shown to be ill founded gossip or rumour or for any other evidence which a reasonable and fair minded decision maker acting in good faith with proper regard to the interests of the public and the applicant would not think it right to rely on. *McCool v Rushcliffe Borough Council (1998)*
- 5.3.4 It should be noted, in relation to point 5.3.1.1, that the offence in question must involve dishonesty, indecency or violence. Dishonesty, indecency or violence must therefore be part of the commission of the criminal offence for this subsection to apply, but it is not necessary for the offence to be one of dishonesty, indecency or violence.

- 5.3.5 With regard to point 5.3.1.3, no definition is given of reasonable cause within the legislation therefore the question is ultimately a matter for the discretion of the decision maker.
- 5.3.6 Where a district council suspend, revoke or refuse to renew any licence under this section they will give the driver notice of the grounds on which the licence was suspended or revoked or on which they refused to renew the licence within fourteen days of such suspension, revocation or refusal.
- 5.3.7 A driver aggrieved by a decision of a district council under this section may appeal to a magistrates' court within 21 days from the date of service.
- 5.3.8 A suspension or revocation under this section does not take effect until either the expiration of the 21 day appeal period or until any appeal lodged has been concluded; unless it appears to the council that the interests of public safety require the suspension or revocation of the licence to have immediate effect, and the notice given to the driver includes a statement that that is so and an explanation why, in which case the suspension or revocation takes effect when the notice is given to the driver (see 5.4 below).

#### 5.4 Immediate/Interim Suspension and Immediate Revocation of Drivers' Licences

- 5.4.1 The taxi licensing regime is clearly and expressly in place to protect members of the public travelling in taxi and private hire vehicles.
- 5.4.2 There are issues which undermine that protection which amount to criminal offences in their own right but there are other issues which have significance for the protection of the travelling public where a criminal offence might not have been committed or proved.
- 5.4.3 Where an allegation or information is received about a licensed driver and is of such a nature that a real and reasonable concern is raised in terms of public safety or crime and disorder about the suitability of a licensed driver to continue to hold a driver licence for the time being, then consideration should be given to the suspension of that licence.
- 5.4.4 An immediate suspension should ordinarily only be imposed on those drivers who:
  - 5.4.4.1 Have committed, or are alleged to have committed, a serious offence.
  - 5.4.4.2 Are in breach of the requirements placed upon that type of licence within primary legislation.
  - 5.4.4.3 Are in conflict with a significant part of the council's policy, or
  - 5.4.4.4 Where there is intelligence provided which raises a significant concern and it is necessary to immediately remove that potential risk
- 5.4.5 Both standard and immediate suspensions/revocations require the decision maker to consider the same matters, i.e. whether there has been a relevant conviction or any other reasonable cause.
- 5.4.6 Because a suspension or revocation can only take immediate effect in the interests of public safety there must be an additional consideration. That means the decision maker should consider whether there is a clear connection between the alleged

incidents and the safety of the travelling public which justifies taking this additional step, given that it can deprive a driver of their livelihood pending an appeal.

- 5.4.7 However, there are no further limits or restrictions on the decision maker's exercise of judgment or discretion providing a proper judgment is made weighing up the evidence available.
- 5.4.8 There is no requirement in the legislation limiting this power to cases where there has been a conviction for a criminal offence nor that any alleged incident or offence is 'serious'.
- 5.4.9 The decision must be taken in the interests of public safety and should be fair, reasonable, proportionate and in accordance with human rights, natural justice principles and the Regulator's Code.
- 5.4.10 Although every case will be assessed on its facts and merits, the council will have regard, amongst other things, to the Guidelines Relating to Fitness and Propriety set out in Appendix C when considering whether an offence, allegation or complaint should be considered as warranting immediate suspension/revocation in the public interest. This will be judged against all the circumstances of the case, including any admissions or denials made and any other relevant evidence.
- 5.4.11 Because of the impact on a licensed driver, any decision to suspend or revoke a licence should never be taken lightly. The licensing system is however designed to protect the public and it would be wrong not to suspend or revoke where such course of action is considered appropriate on the facts of an individual case. If there is any doubt whatsoever as to the driver's suitability to hold a licence as a fit and proper person, serious consideration must be given to refusal, revocation or suspension.
- 5.5 Suspension and Revocation of Operators' Licences under s.62 LG(MP)A 1976
- 5.5.1 Section 62 of the LG(MP)A 1976 allows a council to suspend, revoke or refuse to renew an operator licence on any of the following grounds:
  - 5.5.1.1 Any offence under, or non-compliance with, the provisions of Part II of this Act.
  - 5.5.1.2 Any conduct on the part of the operator which appears to the district council to render him unfit to hold an operator's licence.
  - 5.5.1.3 Any material change since the licence was granted in any of the circumstances of the operator on the basis of which the licence was granted.
  - 5.5.1.4 That the operator has since the grant of the licence been convicted of an immigration offence or required to pay an immigration penalty; or
  - 5.5.1.5 any other reasonable cause
- 5.5.2 Where a district council suspend, revoke or refuse to renew any licence under this section they will give the operator notice of the grounds on which the licence was suspended or revoked or on which they refused to renew the licence within fourteen days of such suspension, revocation or refusal.
- 5.5.3 An operator aggrieved by a decision of a district council under this section may appeal to a magistrates' court within 21 days from the date of service.

- 5.5.4 A suspension or revocation under this section does not take effect until either the expiration of the 21-day appeal period or until any appeal lodged has been concluded.

## **6. Appeals**

- 6.1 In general terms, where an applicant is aggrieved by the council's decision to refuse to grant, refuse to renew, suspend or revoke a licence; the applicant has a right of appeal to the Magistrates' Court.
- 6.2 In addition, Medway Council offers applicants and licensees an opportunity to first submit an appeal for determination by the Licensing Sub Committee where a licence has been refused, amended or revoked. However, this does not include appeals against suspension of a licence.
- 6.3 Where a right of appeal exists, any notifications of formal enforcement actions will include written information on how to appeal, including 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.
- 6.4 A driver can also appeal against a refusal to renew their licence; however, as their previous licence would have already expired, they cannot continue to work as they would no longer hold a current licence.

## **7. Prosecution**

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

- 7.4 Before referring a matter to the council's Legal Services for possible prosecution, senior officers must be satisfied that there is suitable and sufficient evidence to provide a realistic prospect of conviction; a prima facie case is not enough.
- 7.5 In addition to being satisfied that there is sufficient evidence to provide realistic prospect of conviction, it must be established that it is in the public interest to prosecute. The Code for Crown Prosecutors, issued by the Crown Prosecution Service, provides guidance which will be considered, including relevant public interest criteria.
- 7.6 When a decision is being taken on whether to prosecute, the factors to be considered may include: -
- 7.6.1 the seriousness of the alleged offence.
  - 7.6.2 the risk of harm to the public.
  - 7.6.3 identifiable victims.
  - 7.6.4 failure to comply with a statutory notice served.
  - 7.6.5 disregard of safety for financial reward.
  - 7.6.6 the previous history of the party concerned.
  - 7.6.7 offences following a history of similar offences.
  - 7.6.8 failure to respond positively to past warnings, requests or enforcement action.
  - 7.6.9 the ability of any important witnesses and their willingness to cooperate.
  - 7.6.10 the willingness of the party to prevent a recurrence of the problem.
  - 7.6.11 the probable public benefit of a prosecution and the importance of the case e.g. whether it might establish a legal precedent (as indicated above, advice on the public interest is contained in the Code for Crown Prosecutors. The general thrust of the advice contained therein is that the graver the offence, the less likelihood there will be that the public interest will allow anything other than a prosecution).
  - 7.6.12 whether other action, such as issuing a simple caution in accordance with the Ministry of Justice's ['Simple Cautions for Adult Offenders'](#) guidance would be more appropriate or effective.
  - 7.6.13 any other reasonable consideration.

## **8. Simple Cautions**

- 8.1 A simple caution may be used as an alternative to a prosecution in certain circumstances.
- 8.2 The purposes of the simple caution are: -
  - 8.2.1 To deal quickly and simply with less serious offences.
  - 8.2.2 To divert less serious offences away from the Courts.

- 8.2.3 To reduce the likelihood of repeat offences.
- 8.3 To safeguard the suspected offender's interests, the following conditions should be fulfilled before a caution is administered: -
  - 8.3.1 There must be evidence of the suspected offender's guilt sufficient to give a realistic prospect of conviction.
  - 8.3.2 The suspected offender must admit the offence.
  - 8.3.3 The suspected offender must understand the significance of a simple caution and give informed consent to being cautioned.
- 8.4 If there is insufficient evidence to consider taking a prosecution, then by implication, the criteria is not satisfied for the use of a simple caution. A simple caution should also not be used where the suspected offender does not make a clear and reliable admission of the offence. It should be noted that there is no legal obligation for any person to accept the offer of a simple caution, and no pressure should be applied to the person to accept a caution.
- 8.5 Where a person declines the offer of a simple caution, it will be necessary to consider taking alternative enforcement action. Whilst this will usually mean prosecution, this is not necessarily inevitable.

## **9. Transparency**

- 9.1 Explaining to the licence holder what is alleged or what action is intended to be taken along with the reason(s) for that decision is a very important feature which enables the licence holder to exercise their rights and understand the situation from the council's viewpoint. Licence holders will therefore be kept informed of such matters as soon as is reasonably practicable, in writing and in plain English.
- 9.2 Written documentation provided will:
  - 9.2.1 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.
  - 9.2.2 Indicate the legislation or conditions contravened and measures which will enable compliance with the legal requirements and point out, where appropriate, that other means of achieving the same effect may be chosen; and
  - 9.2.3 Clearly indicate any recommendations of good practice under an appropriate heading to differentiate them from legal requirements.
- 9.3 The clear distinction between legal requirements and matters which are recommended as good practice in all enforcement action, even if only giving verbal advice, is of considerable importance.

## **10. Test Purchasing**

- 10.1 The Council may from time to time conduct 'Test Purchasing' operations as a quality control measure with regard to licensing.
- 10.2 Such operations may be carried out to:

- 10.2.1 Ensure that licence holders are compliant.
- 10.2.2 Ensure that licence holders are providing an appropriately high level of service to the public.
- 10.2.3 Investigate complaints.
- 10.2.4 Highlight best practice.